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# PAPERS

RELATING TO THE

# FOREIGN RELATIONS

OF

THE UNITED STATES,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 6, 1886,

PRECEDED BY A

LIST OF PAPERS, WITH AN ANALYSIS OF THEIR CONTENTS, AND  
FOLLOWED BY AN ALPHABETICAL INDEX OF SUBJECTS.

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1964

# FOREIGN RELATIONS

## THE UNITED STATES

DEPARTMENT OF STATE

FOR THE UNITED STATES OF AMERICA

1964

1964

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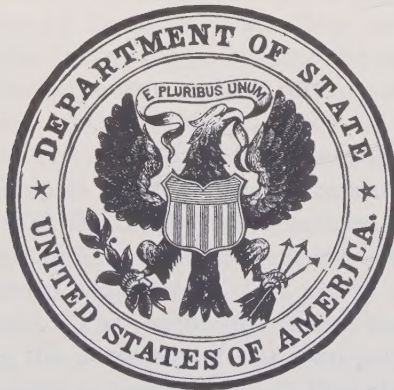
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WASHINGTON:  
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## MESSAGE.

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*To the Congress of the United States:*

In discharge of a constitutional duty, and following a well established precedent in the Executive office, I herewith transmit to the Congress at its re-assembling, certain information concerning the state of the Union, together with such recommendations for legislative consideration, as appear necessary and expedient.

Our Government has consistently maintained its relations of friendship toward all other powers, and of neighborly interest toward those whose possessions are contiguous to our own. Few questions have arisen during the past year with other governments, and none of those are beyond the reach of settlement in friendly counsel.

We are as yet without provision for the settlement of claims of citizens of the United States against Chile for injuries during the late war with Peru and Bolivia. The mixed commissions, organized under claims conventions, concluded by the Chilean government with certain European states, have developed an amount of friction which we trust can be avoided in the convention which our representative at Santiago is authorized to negotiate.

The cruel treatment of inoffensive Chinese, has, I regret to say, been repeated in some of the far western states and territories, and acts of violence against those people, beyond the power of the local constituted authorities to prevent, and difficult to punish, are reported even in distant Alaska. Much of this violence can be traced to race prejudice and competition of labor, which cannot, however, justify the oppression of strangers whose safety is guaranteed by our treaty with China equally with the most favored nations.

In opening our vast domain to alien elements, the purpose of our law-givers was to invite assimilation, and not to provide an arena for endless antagonisms. The paramount duty of maintaining public order and defending the interests of our own people, may require the adoption of measures of restriction, but they should not tolerate the oppression of individuals of a special race. I am not without assurance that the government of China, whose friendly disposition towards us I am most happy to recognize, will meet us half way in



devising a comprehensive remedy, by which an effective limitation of Chinese emigration, joined to protection of those Chinese subjects who remain in this country, may be secured.

Legislation is needed to execute the provisions of our Chinese convention of 1880 touching the opium traffic.

While the good will of the Colombian government toward our country is manifest, the situation of American interests on the Isthmus of Panama has at times excited concern, and invited friendly action looking to the performance of the engagements of the two nations concerning the territory embraced in the interoceanic transit. With the subsidence of the Isthmian disturbances, and the erection of the State of Panama into a federal district under the direct government of the constitutional administration at Bogotá, a new order of things has been inaugurated which, although as yet somewhat experimental and affording scope for arbitrary exercise of power by the delegates of the national authority, promises much improvement.

The sympathy between the people of the United States and France, born during our colonial struggle for independence and continuing to-day, has received a fresh impulse in the successful completion and dedication of the colossal statue of "Liberty Enlightening the World" in New York harbor—the gift of Frenchmen to Americans.

A convention between the United States and certain other powers for the protection of submarine cables was signed at Paris on March 14, 1884, and has been duly ratified and proclaimed by this Government. By agreement between the high contracting parties this convention is to go into effect on the 1st of January next, but the legislation required for its execution in the United States has not yet been adopted. I earnestly recommend its enactment.

Cases have continued to occur in Germany giving rise to much correspondence in relation to the privilege of sojourn of our naturalized citizens of German origin revisiting the land of their birth, yet I am happy to state that our relations with that country have lost none of their accustomed cordiality.

The claims for interest upon the amount of tonnage dues illegally exacted from certain German steamship lines were favorably reported in both Houses of Congress at the last session, and I trust will receive final and favorable action at an early day.

The recommendations contained in my last annual message in relation to a mode of settlement of the fishery rights in the waters of

British North America—so long a subject of anxious difference between the United States and Great Britain—was met by an adverse vote of the Senate on April 13th last; and thereupon negotiations were instituted to obtain an agreement with Her Britannic Majesty's government for the promulgation of such joint interpretation and definition of the article of the Convention of 1818, relating to the territorial waters and inshore fisheries of the British Provinces, as should secure the Canadian rights from encroachment by United States fishermen, and, at the same time, ensure the enjoyment by the latter of the privileges guaranteed to them by such convention.

The questions involved are of long standing, of grave consequence, and from time to time for nearly three-quarters of a century, have given rise to earnest international discussions, not unaccompanied by irritation.

Temporary arrangements by treaties have served to allay friction—which, however, has revived as each treaty was terminated. The last arrangement, under the treaty of 1871, was abrogated after due notice by the United States on June 30, 1885, but I was enabled to obtain for our fishermen for the remainder of that season, enjoyment of the full privileges accorded by the terminated treaty.

The Joint High Commission by whom the treaty had been negotiated—although invested with plenary power to make a permanent settlement—were content with a temporary arrangement, after the termination of which the question was relegated to the stipulations of the treaty of 1818, as to the first article of which no construction satisfactory to both countries has ever been agreed upon.

The progress of civilization and growth of population in the British Provinces to which the fisheries in question are contiguous, and the expansion of commercial intercourse between them and the United States, present to-day a condition of affairs scarcely realizable at the date of the negotiations of 1818.

New and vast interests have been brought into existence; modes of intercourse between the respective countries have been invented and multiplied; the methods of conducting the fisheries have been wholly changed; and all this is necessarily entitled to candid and careful consideration in the adjustment of the terms and conditions of intercourse and commerce between the United States and their neighbors along a frontier of over 3,500 miles.

This propinquity, community of language and occupation, and similarity of political and social institutions, indicate the practicability and obvious wisdom of maintaining mutually beneficial and friendly relations.

Whilst I am unfeignedly desirous that such relations should exist between us and the inhabitants of Canada, yet the action of their

officials during the past season towards our fishermen has been such as to seriously threaten their continuance.

Although disappointed in my efforts to secure a satisfactory settlement of the fishery question, negotiations are still pending, with reasonable hope that before the close of the present session of Congress announcement may be made that an acceptable conclusion has been reached.

As at an early day there may be laid before Congress the correspondence of the Department of State in relation to this important subject, so that the history of the past fishing season may be fully disclosed and the action and the attitude of the Administration clearly comprehended, a more extended reference is not deemed necessary in this communication.

The recommendation, submitted last year, that provision be made for a preliminary reconnoissance of the conventional boundary line between Alaska and British Columbia is renewed.

I express my unhesitating conviction that the intimacy of our relations with Hawaii should be emphasized. As a result of the reciprocity treaty of 1875, those islands, on the highway of Oriental and Australasian traffic, are virtually an outpost of American commerce and a stepping-stone to the growing trade of the Pacific. The Polynesian Island groups have been so absorbed by other and more powerful governments, that the Hawaiian Islands are left almost alone in the enjoyment of their autonomy, which it is important for us should be preserved. Our treaty is now terminable on one year's notice, but propositions to abrogate it would be, in my judgment, most ill-advised. The paramount influence we have there acquired, once relinquished, could only with difficulty be regained, and a valuable ground of vantage for ourselves might be converted into a stronghold for our commercial competitors. I earnestly recommend that the existing treaty stipulations be extended for a further term of seven years. A recently signed treaty to this end is now before the Senate.

The importance of telegraphic communication between those islands and the United States should not be overlooked.

The question of a general revision of the treaties of Japan is again under discussion at Tokio. As the first to open relations with that empire, and as the nation in most direct commercial relation with Japan, the United States have lost no opportunity to testify their consistent friendship by supporting the just claims of Japan to autonomy and independence among nations.



A treaty of extradition between the United States and Japan, the first concluded by that empire, has been lately proclaimed.

The weakness of Liberia and the difficulty of maintaining effective sovereignty over its outlying districts, have exposed that republic to encroachment. It cannot be forgotten that this distant community is an offshoot of our own system, owing its origin to the associated benevolence of American citizens, whose praiseworthy efforts to create a nucleus of civilization in the dark continent have commanded respect and sympathy everywhere, especially in this country. Although a formal protectorate over Liberia is contrary to our traditional policy, the moral right and duty of the United States to assist in all proper ways in the maintenance of its integrity is obvious, and has been consistently announced during nearly half a century. I recommend that, in the reorganization of our Navy, a small vessel, no longer found adequate to our needs, be presented to Liberia, to be employed by it in the protection of its coastwise revenues.

The encouraging development of beneficial and intimate relations between the United States and Mexico, which has been so marked within the past few years, is at once the occasion of congratulation and of friendly solicitude. I urgently renew my former representation of the need of speedy legislation by Congress to carry into effect the Reciprocity Commercial Convention of January 20, 1883.

Our commercial treaty of 1831 with Mexico was terminated, according to its provisions, in 1881, upon notification given by Mexico in pursuance of her announced policy of recasting all her commercial treaties. Mexico has since concluded with several foreign governments new treaties of commerce and navigation, defining alien rights of trade, property, and residence, treatment of shipping, consular privileges, and the like. Our yet unexecuted Reciprocity Convention of 1883 covers none of these points, the settlement of which is so necessary to good relationship. I propose to initiate with Mexico negotiations for a new and enlarged treaty of commerce and navigation.

In compliance with a resolution of the Senate, I communicated to that body on August 2d last, and also to the House of Representatives, the correspondence in the case of A. K. Cutting, an American citizen, then imprisoned in Mexico, charged with the commission of a penal offense in Texas, of which a Mexican citizen was the object.

After demand had been made for his release the charge against him was amended so as to include a violation of Mexican law within Mexican territory.



This joinder of alleged offenses, one within and the other exterior to Mexico, induced me to order a special investigation of the case—pending which Mr. Cutting was released.

The incident has, however, disclosed a claim of jurisdiction by Mexico, novel in our history, whereby any offense, committed anywhere by a foreigner, penal in the place of its commission, and of which a Mexican is the object, may, if the offender be found in Mexico, be there tried and punished in conformity with Mexican laws.

This jurisdiction was sustained by the courts of Mexico in the Cutting case, and approved by the executive branch of that government, upon the authority of a Mexican statute. The appellate court, in releasing Mr. Cutting, decided that the abandonment of the complaint by the Mexican citizen aggrieved by the alleged crime (a libelous publication), removed the basis of further prosecution, and also declared justice to have been satisfied by the enforcement of a small part of the original sentence.

The admission of such a pretension would be attended with serious results, invasive of the jurisdiction of this Government, and highly dangerous to our citizens in foreign lands; therefore I have denied it, and protested against its attempted exercise, as unwarranted by the principles of law and international usages.

A sovereign has jurisdiction of offenses which take effect within his territory, although concocted or commenced outside of it; but the right is denied of any foreign sovereign to punish a citizen of the United States for an offense consummated on our soil in violation of our laws, even though the offense be against a subject or citizen of such sovereign. The Mexican statute in question makes the claim broadly, and the principle, if conceded, would create a dual responsibility in the citizen, and lead to inextricable confusion, destructive of that certainty in the law which is an essential of liberty.

When citizens of the United States voluntarily go into a foreign country they must abide by the laws there in force, and will not be protected by their own Government from the consequences of an offense against those laws committed in such foreign country; but watchful care and interest of this Government over its citizens are not relinquished because they have gone abroad; and if charged with crime committed in the foreign land a fair and open trial, conducted with decent regard for justice and humanity, will be demanded for them. With less than that this Government will not be content when the life or liberty of its citizens is at stake.

Whatever the degree to which extraterritorial criminal jurisdiction may have been formerly allowed by consent and reciprocal agreement among certain of the European states, no such doctrine or practice

was ever known to the laws of this country or of that from which our institutions have mainly been derived.

In the case of Mexico there are reasons especially strong for perfect harmony in the mutual exercise of jurisdiction. Nature has made us irrevocably neighbors, and wisdom and kind feeling should make us friends.

The overflow of capital and enterprise from the United States is a potent factor in assisting the development of the resources of Mexico, and in building up the prosperity of both countries.

To assist this good work all grounds of apprehension for the security of person and property should be removed; and I trust that in the interests of good neighborhood the statute referred to will be so modified as to eliminate the present possibilities of danger to the peace of the two countries.

The government of the Netherlands has exhibited concern in relation to certain features of our tariff laws, which are supposed by them to be aimed at a class of tobacco produced in the Dutch East Indies. Comment would seem unnecessary upon the unwisdom of legislation appearing to have a special national discrimination for its object, which, although unintentional, may give rise to injurious retaliation.

The establishment, less than four years ago, of a legation at Teheran is bearing fruit in the interest exhibited by the Shah's government in the industrial activity of the United States and the opportunities of beneficial interchanges.

Stable government is now happily restored in Peru by the election of a constitutional President, and a period of rehabilitation is entered upon. But the recovery is necessarily slow from the exhaustion caused by the late war, and civil disturbances. A convention to adjust, by arbitration, claims of our citizens has been proposed, and is under consideration.

The naval officer who bore to Siberia the testimonials bestowed by Congress in recognition of the aid given to the Jeannette survivors, has successfully accomplished his mission. His interesting report will be submitted. It is pleasant to know that this mark of appreciation has been welcomed by the Russian government and people as befits the traditional friendship of the two countries.

Civil perturbations in the Samoan Islands have during the past few years been a source of considerable embarrassment to the three

governments, Germany, Great Britain, and the United States, whose relations and extraterritorial rights in that important group are guaranteed by treaties. The weakness of the native administration and the conflict of opposing interests in the Islands have led King Malietoa to seek alliance or protection in some one quarter, regardless of the distinct engagements whereby no one of the three treaty powers may acquire any paramount or exclusive interest. In May last Malietoa offered to place Samoa under the protection of the United States, and the late consul, without authority, assumed to grant it. The proceeding was promptly disavowed and the overzealous official recalled. Special agents of the three governments have been deputed to examine the situation in the Islands. With a change in the representation of all three powers, and a harmonious understanding between them, the peace, prosperity, autonomous administration, and neutrality of Samoa can hardly fail to be secured.

It appearing that the government of Spain did not extend to the flag of the United States in the Antilles the full measure of reciprocity requisite under our statute for the continuance of the suspension of discriminations against the Spanish flag in our ports, I was constrained in October last to rescind my predecessor's proclamation of February 14, 1884, permitting such suspension. An arrangement was, however, speedily reached, and upon notification from the government of Spain that all differential treatment of our vessels and their cargoes, from the United States or from any foreign country, had been completely and absolutely relinquished, I availed myself of the discretion conferred by law, and issued on the 27th of October my proclamation, declaring reciprocal suspension in the United States. It is most gratifying to bear testimony to the earnest spirit in which the government of the Queen Regent has met our efforts to avert the initiation of commercial discriminations and reprisals, which are ever disastrous to the material interests and the political good will of the countries they may affect.

The profitable development of the large commercial exchanges between the United States and the Spanish Antilles is naturally an object of solicitude. Lying close at our doors, and finding here their main markets of supply and demand, the welfare of Cuba and Porto Rico and their production and trade, are scarcely less important to us than to Spain. Their commercial and financial movements, are so naturally a part of our system that no obstacle to fuller and freer intercourse should be permitted to exist. The standing instructions of our representatives at Madrid and Havana have for years been to leave no effort unessayed to further these ends, and at no time has

the equal good desire of Spain been more hopefully manifested than now.

The government of Spain, by removing the consular tonnage fees on cargoes shipped to the Antilles, and by reducing passport fees, has shown its recognition of the needs of less trammelled intercourse.

An effort has been made during the past year to remove the hinderances to the proclamation of the treaty of naturalization with the Sublime Porte, signed in 1874, which has remained inoperative owing to a disagreement of interpretation of the clauses relative to the effects of the return to and sojourn of a naturalized citizen in the land of origin. I trust soon to be able to announce a favorable settlement of the differences as to this interpretation.

It has been highly satisfactory to note the improved treatment of American missionaries in Turkey, as has been attested by their acknowledgments to our late minister to that government of his successful exertions in their behalf.

The exchange of ratifications of the convention of December 5, 1885, with Venezuela, for the reopening of the awards of the Caracas Commission under the Claims Convention of 1866, has not yet been effected owing to the delay of the Executive of that republic in ratifying the measure. I trust that this postponement will be brief; but should it much longer continue, the delay may well be regarded as a rescission of the compact and a failure on the part of Venezuela to complete an arrangement so persistently sought by her during many years and assented to by this Government in a spirit of international fairness, although to the detriment of holders of bona fide awards of the impugned commission.

I renew the recommendation of my last annual message, that existing legislation concerning citizenship and naturalization be revised. We have treaties with many states providing for the renunciation of citizenship by naturalized aliens, but no statute is found to give effect to such engagements, nor any which provides a needed central bureau for the registration of naturalized citizens.

Experience suggests that our statutes regulating extradition might be advantageously amended by a provision for the transit across our territory, now a convenient thoroughfare of travel from one foreign country to another, of fugitives surrendered by a foreign government to a third state. Such provisions are not unusual in the legislation of other countries, and tend to prevent the miscarriage of justice.



It is also desirable, in order to remove present uncertainties, that authority should be conferred on the Secretary of State to issue a certificate in case of an arrest for the purpose of extradition, to the officer before whom the proceeding is pending, showing that a requisition for the surrender of the person charged has been duly made. Such a certificate, if required to be received before the prisoner's examination, would prevent a long and expensive judicial inquiry into a charge which the foreign government might not desire to press. I also recommend that express provision be made for the immediate discharge from custody of persons committed for extradition where the President is of opinion that surrender should not be made.

The drift of sentiment in civilized communities toward full recognition of the rights of property in the creations of the human intellect has brought about the adoption, by many important nations, of an International Copyright Convention, which was signed at Berne on the 18th of September, 1885.

Inasmuch as the Constitution gives to Congress the power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," this Government did not feel warranted in becoming a signatory pending the action of Congress upon measures of international copyright now before it, but the right of adhesion to the Berne Convention hereafter, has been reserved. I trust the subject will receive at your hands the attention it deserves, and that the just claims of authors, so urgently pressed, will be duly heeded.

Representations continue to be made to me of the injurious effect upon American artists studying abroad and having free access to the art collections of foreign countries, of maintaining a discriminating duty against the introduction of the works of their brother artists of other countries; and I am induced to repeat my recommendation for the abolition of that tax.

Pursuant to a provision of the diplomatic and consular appropriation act, approved July 1, 1886, the estimates submitted by the Secretary of State for the maintenance of the consular service have been recast, on the basis of salaries for all officers to whom such allowance is deemed advisable. Advantage has been taken of this to redistribute the salaries of the offices now appropriated for, in accordance with the work performed, the importance of the representa-

tive duties of the incumbent, and the cost of living at each post. The last consideration has been too often lost sight of in the allowances heretofore made. The compensation which may suffice for the decent maintenance of a worthy and capable officer in a position of onerous and representative trust at a post readily accessible, and where the necessities of life are abundant and cheap, may prove an inadequate pittance in distant lands, where the better part of a year's pay is consumed in reaching the post of duty, and where the comforts of ordinary civilized existence can only be obtained with difficulty and at exorbitant cost. I trust that, in considering the submitted schedules, no mistaken theory of economy will perpetuate a system which in the past has virtually closed to deserving talent many offices where capacity and attainments of a high order are indispensable, and in not a few instances has brought discredit on our national character and entailed embarrassment and even suffering on those deputed to uphold our dignity and interests abroad.

In connection with this subject I earnestly reiterate the practical necessity of supplying some mode of trustworthy inspection and report, of the manner in which the consulates are conducted. In the absence of such reliable information, efficiency can scarcely be rewarded, or its opposite corrected.

Increasing competition in trade has directed attention to the value of the consular reports printed by the Department of State, and the efforts of the Government to extend the practical usefulness of these reports have created a wider demand for them at home and a spirit of emulation abroad. Constituting a record of the changes occurring in trade and of the progress of the arts and invention in foreign countries, they are much sought for by all interested in the subjects which they embrace.

The report of the Secretary of the Treasury exhibits in detail the condition of the public finances and of the several branches of the Government related to his Department. I especially direct the attention of the Congress to the recommendations contained in this and the last preceding report of the Secretary, touching the simplification and amendment of the laws relating to the collection of our revenues; and in the interest of economy and justice to the Government, I hope they may be adopted by appropriate legislation.

The ordinary receipts of the Government for the fiscal year ended June 30, 1886, were \$336,439,727.06. Of this amount \$192,905,023.41 was received from customs and \$116,805,936.48 from internal revenue. The total receipts, as here stated, were \$13,749,020.68 greater

than for the previous year, but the increase from customs was \$11,434,084.10, and from internal revenue \$4,407,210.94, making a gain in these items for the last year of \$15,841,295.04—a falling off in other resources reducing the total increase to the smaller amount mentioned.

The expense at the different custom-houses, of collecting this increased customs revenue was less than the expense attending the collection of such revenue for the preceding year by \$490,608; and the increased receipts of internal revenue were collected at a cost to the Internal-Revenue Bureau \$155,944.99 less than the expense of such collection for the previous year.

The total ordinary expenses of the Government for the fiscal year ended June 30, 1886, were \$242,483,138.50, being less by \$17,788,797 than such expenditures for the year preceding, and leaving a surplus in the Treasury at the close of the last fiscal year of \$93,956,588.56 as against \$63,463,771.27 at the close of the previous year, being an increase in such surplus of \$30,492,817.29.

The expenditures are compared with those of the preceding fiscal year and classified as follows:

|                                                                                                             | Year ending June<br>30, 1886. | Year ending June<br>30, 1885. |
|-------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------|
| For civil expenses .....                                                                                    | \$21,955,604 04               | \$23,826,942 11               |
| For foreign intercourse .....                                                                               | 1,332,320 88                  | 5,439,609 11                  |
| For Indians .....                                                                                           | 6,099,158 17                  | 6,552,494 63                  |
| For pensions .....                                                                                          | 63,404,864 03                 | 56,102,267 49                 |
| For the military, including river and harbor improve-<br>ments and arsenals .....                           | 34,324,152 74                 | 42,670,578 47                 |
| For the Navy, including vessels, machinery, and im-<br>provement of navy-yards .....                        | 13,907,887 74                 | 16,021,079 69                 |
| For interest on public debt .....                                                                           | 50,580,145 97                 | 51,386,256 47                 |
| For the District of Columbia .....                                                                          | 2,892,321 89                  | 3,499,650 95                  |
| Miscellaneous expenditures, including public build-<br>ings, light-houses, and collecting the revenue ..... | 47,986,683 04                 | 54,728,056 21                 |

For the current year to end June 30, 1887, the ascertained receipts up to October 1, 1886, with such receipts estimated for the remainder of the year, amount to \$356,000,000.

The expenditures ascertained and estimated for the same period are \$266,000,000, indicating an anticipated surplus at the close of the year of \$90,000,000.

The total value of the exports from the United States to foreign countries during the fiscal year is stated and compared with the preceding year as follows:

|                            | For the year ending June 30, 1886. | For the year ending June 30, 1885. |
|----------------------------|------------------------------------|------------------------------------|
| Domestic merchandise ..... | \$665, 964, 529 00                 | \$726, 682, 946 00                 |
| Foreign merchandise .....  | 13, 560, 301 00                    | 15, 506, 809 00                    |
| Gold .....                 | 42, 952, 191 00                    | 8, 477, 892 00                     |
| Silver .....               | 29, 511, 219 00                    | 33, 753, 633 00                    |

The value of some of our leading exports during the last fiscal year, as compared with the value of the same for the year immediately preceding, is here given, and furnishes information both interesting and suggestive:

|                                      | For the year ending June 30, 1886. | For the year ending June 30, 1885. |
|--------------------------------------|------------------------------------|------------------------------------|
| Cotton and cotton manufactures ..... | \$219, 045, 576 00                 | \$213, 799, 049 00                 |
| Tobacco and its manufactures .....   | 30, 424, 908 00                    | 24, 767, 305 00                    |
| Breadstuffs .....                    | 125, 846, 558 00                   | 160, 370, 821 00                   |
| Provisions .....                     | 90, 625, 216 00                    | 107, 332, 456 00                   |

Our imports during the last fiscal year, as compared with the previous year, were as follows:

|                   | 1886.              | 1885.              |
|-------------------|--------------------|--------------------|
| Merchandise ..... | \$635, 436, 136 00 | \$579, 580, 053 80 |
| Gold .....        | 20, 743, 349 00    | 26, 691, 696 00    |
| Silver .....      | 17, 850, 307 00    | 16, 550, 627 00    |

In my last annual message to the Congress attention was directed to the fact that the revenues of the Government exceeded its actual needs; and it was suggested that legislative action should be taken to relieve the people from the unnecessary burden of taxation thus made apparent.

In view of the pressing importance of the subject I deem it my duty to again urge its consideration.



The income of the Government, by its increased volume and through economies in its collection, is now more than ever in excess of public necessities. The application of the surplus to the payment of such portion of the public debt as is now at our option subject to extinguishment, if continued at the rate which has lately prevailed, would retire that class of indebtedness within less than one year from this date. Thus a continuation of our present revenue system would soon result in the receipt of an annual income much greater than necessary to meet Government expenses, with no indebtedness upon which it could be applied. We should then be confronted with a vast quantity of money, the circulating medium of the people, hoarded in the Treasury when it should be in their hands, or we should be drawn into wasteful public extravagance with all the corrupting national demoralization which follows in its train.

But it is not the simple existence of this surplus and its threatened attendant evils, which furnish the strongest argument against our present scale of Federal taxation. Its worst phase is the exaction of such a surplus through a perversion of the relations between the people and their Government, and a dangerous departure from the rules which limit the right of Federal taxation.

Good government, and especially the government of which every American citizen boasts, has for its objects, the protection of every person within its care in the greatest liberty consistent with the good order of society, and his perfect security in the enjoyment of his earnings, with the least possible diminution for public needs. When more of the people's substance is exacted through the form of taxation than is necessary to meet the just obligations of the Government and the expense of its economical administration, such exaction becomes ruthless extortion and a violation of the fundamental principles of a free Government.

The indirect manner in which these exactions are made, has a tendency to conceal their true character and their extent. But we have arrived at a stage of superfluous revenue which has aroused the people to a realization of the fact, that the amount raised professedly for the support of the Government, is paid by them as absolutely, if added to the price of the things which supply their daily wants, as if it was paid at fixed periods into the hand of the tax-gatherer.

Those who toil for daily wages are beginning to understand that capital, though sometimes vaunting its importance and clamoring for the protection and favor of the Government, is dull and sluggish, till, touched by the magical hand of labor, it springs into activity, furnishing an occasion for Federal taxation and gaining

the value which enables it to bear its burden. And the laboring man is thoughtfully inquiring whether in these circumstances, and considering the tribute he constantly pays into the public Treasury as he supplies his daily wants, he receives his fair share of advantages.

There is also a suspicion abroad, that the surplus of our revenues indicates abnormal and exceptional business profits, which, under the system which produces such surplus, increase without corresponding benefit to the people at large, the vast accumulations of a few among our citizens whose fortunes, rivaling the wealth of the most favored in anti-democratic nations, are not the natural growth of a steady, plain and industrious republic.

Our farmers too, and those engaged directly and indirectly in supplying the products of agriculture, see that day by day, and as often as the daily wants of their households recur, they are forced to pay excessive and needless taxation, while their products struggle in foreign markets with the competition of nations, which by allowing a freer exchange of productions than we permit, enable their people to sell for prices which distress the American farmer.

As every patriotic citizen rejoices in the constantly increasing pride of our people in American citizenship and in the glory of our national achievements and progress, a sentiment prevails that the leading-strings useful to a nation in its infancy, may well be to a great extent discarded in the present stage of American ingenuity, courage and fearless self-reliance. And for the privilege of indulging this sentiment with true American enthusiasm, our citizens are quite willing to forego an idle surplus in the public Treasury.

And all the people know that the average rate of Federal taxation upon imports is to-day, in time of peace, but little less, while upon some articles of necessary consumption it is actually more, than was imposed by the grievous burden willingly borne, at a time when the Government needed millions to maintain by war the safety and integrity of the Union.

It has been the policy of the Government to collect the principal part of its revenues by a tax upon imports; and no change in this policy is desirable. But the present condition of affairs constrains our people to demand, that by a revision of our revenue laws, the receipts of the Government shall be reduced to the necessary expense of its economical administration; and this demand should be recognized and obeyed by the people's representatives in the legislative branch of the Government.

In readjusting the burdens of Federal taxation, a sound public policy requires that such of our citizens as have built up large and

important industries under present conditions, should not be suddenly and to their injury, deprived of advantages to which they have adapted their business; but if the public good requires it, they should be content with such consideration as shall deal fairly and cautiously with their interests, while the just demand of the people for relief from needless taxation is honestly answered.

A reasonable and timely submission to such a demand should certainly be possible without disastrous shock to any interest; and a cheerful concession sometimes averts abrupt and heedless action, often the outgrowth of impatience and delayed justice.

Due regard should be also accorded in any proposed readjustment, to the interests of American labor so far as they are involved. We congratulate ourselves that there is among us no laboring class, fixed within unyielding bounds and doomed under all conditions to the inexorable fate of daily toil. We recognize in labor a chief factor in the wealth of the republic, and we treat those who have it in their keeping as citizens entitled to the most careful regard and thoughtful attention. This regard and attention should be awarded them, not only because labor is the capital of our workingmen, justly entitled to its share of Government favor, but for the further and not less important reason, that the laboring man surrounded by his family in his humble home, as a consumer is vitally interested in all that cheapens the cost of living and enables him to bring within his domestic circle, additional comforts and advantages.

This relation of the workingman to the revenue laws of the country, and the manner in which it palpably influences the question of wages, should not be forgotten in the justifiable prominence given to the proper maintenance of the supply and protection of well-paid labor. And these considerations suggest such an arrangement of Government revenues as shall reduce the expense of living, while it does not curtail the opportunity for work nor reduce the compensation of American labor, and injuriously affect its condition and the dignified place it holds in the estimation of our people.

But our farmers and agriculturists—those who from the soil produce the things consumed by all—are perhaps more directly and plainly concerned than any other of our citizens, in a just and careful system of Federal taxation. Those actually engaged in and more remotely connected with this kind of work, number nearly one-half of our population. None labor harder or more continuously than they. No enactments limit their hours of toil, and no interposition of the Government enhances to any great extent the value of their products. And yet for many of the necessities and comforts of life, which the most scrupulous economy enables them to bring

into their homes, and for their implements of husbandry, they are obliged to pay a price largely increased by an unnatural profit which, by the action of the Government, is given to the more favored manufacturer.

I recommend that, keeping in view all these considerations, the increasing and unnecessary surplus of national income annually accumulating, be released to the people, by an amendment to our revenue laws which shall cheapen the price of the necessities of life and give freer entrance to such imported materials as by American labor may be manufactured into marketable commodities.

Nothing can be accomplished however, in the direction of this much-needed reform, unless the subject is approached in a patriotic spirit of devotion to the interests of the entire country and with a willingness to yield something for the public good.

The sum paid upon the public debt during the fiscal year ended June 30, 1886, was \$44,551,043.36.

During the twelve months ended October 31, 1886, three per cent. bonds were called for redemption amounting to \$127,283,100, of which \$80,643,200 was so called to answer the requirements of the law relating to the sinking fund and \$46,639,900 for the purpose of reducing the public debt by application of a part of the surplus in the Treasury to that object. Of the bonds thus called \$102,269,450 became subject under such calls to redemption prior to November 1, 1886. The remainder, amounting to \$25,013,650, matured under the calls after that date.

In addition to the amount subject to payment and cancellation prior to November 1st, there were also paid before that day certain of these bonds, with the interest thereon, amounting to \$5,072,350, which were anticipated as to their maturity, of which \$2,664,850 had not been called. Thus \$107,341,800 had been actually applied prior to the 1st of November 1886, to the extinguishment of our bonded and interest-bearing debt, leaving on that day still outstanding the sum of \$1,153,443,112. Of this amount \$86,848,700 were still represented by three per cent. bonds. They, however, have been since November 1st, or will at once be, further reduced by \$22,606,150, being bonds which have been called, as already stated, but not redeemed and canceled before the latter date.

During the fiscal year ended June 30, 1886, there were coined under the compulsory silver-coinage act of 1878, 29,838,905 silver dollars, and the cost of the silver used in such coinage was \$23,448,960.01. There had been coined up to the close of the previous fiscal year under the provisions of the law, 203,882,554 silver dollars, and on



the 1st day of December, 1886, the total amount of such coinage was \$247,131,549.

The Director of the Mint reports that at the time of the passage of the law of 1878 directing this coinage, the intrinsic value of the dollars thus coined was ninety-four and one-fourth cents each, and that on the 31st day of July 1886, the price of silver reached the lowest stage ever known, so that the intrinsic or bullion price of our standard silver dollar at that date was less than seventy-two cents. The price of silver on the 30th day of November last was such as to make these dollars intrinsically worth seventy-eight cents each.

These differences in value of the coins represent the fluctuations in the price of silver, and they certainly do not indicate that compulsory coinage by the Government enhances the price of that commodity or secures uniformity in its value.

Every fair and legal effort has been made by the Treasury Department to distribute this currency among the people. The withdrawal of United States Treasury notes of small denominations, and the issuing of small silver certificates have been resorted to in the endeavor to accomplish this result, in obedience to the will and sentiments of the representatives of the people in the Congress. On the 27th day of November, 1886, the people held of these coins, or certificates representing them, the nominal sum of \$166,873,041, and we still had \$79,464,345 in the Treasury—as against about \$142,894,055 so in the hands of the people, and \$72,865,376 remaining in the Treasury one year ago. The Director of the Mint again urges the necessity of more vault room for the purpose of storing these silver dollars which are not needed for circulation by the people.

I have seen no reason to change the views expressed in my last annual message on the subject of this compulsory coinage; and I again urge its suspension on all the grounds contained in my former recommendation, reinforced by the significant increase of our gold exportations during the last year, as appears by the comparative statement herewith presented, and for the further reasons that the more this currency is distributed among the people the greater becomes our duty to protect it from disaster; that we now have abundance for all our needs; and that there seems but little propriety in building vaults to store such currency when the only pretense for its coinage is the necessity of its use by the people as a circulating medium.

The great number of suits now pending in the United States courts for the southern district of New York, growing out of the collection of customs revenue at the port of New York, and the number of such suits that are almost daily instituted, are certainly worthy the attention of the Congress. These legal controversies

based upon conflicting views by importers and the collector as to the interpretation of our present complex and indefinite revenue laws, might be largely obviated by an amendment of those laws.

But pending such amendment the present condition of this litigation should be relieved. There are now pending about twenty-five hundred of these suits. More than eleven hundred have been commenced within the past eighteen months, and many of the others have been at issue for more than twenty-five years. These delays subject the Government to loss of evidence and prevent the preparation necessary to defeat unjust and fictitious claims, while constantly accruing interest threatens to double the demands involved.

In the present condition of the dockets of the courts, well filled with private suits, and of the force allowed the district attorney, no greater than is necessary for the ordinary and current business of his office, these revenue litigations cannot be considered.

In default of the adoption by the Congress of a plan for the general reorganization of the Federal courts as has been heretofore recommended, I urge the propriety of passing a law permitting the appointment of an additional Federal judge in the district where these Government suits have accumulated, so that by continuous sessions of the courts devoted to the trial of these cases, they may be determined.

It is entirely plain that a great saving to the Government would be accomplished by such a remedy, and the suitors who have honest claims would not be denied justice through delay.

The report of the Secretary of War gives a detailed account of the administration of his Department, and contains sundry recommendations for the improvement of the service which I fully approve.

The Army consisted at the date of the last consolidated return, of two thousand one hundred and three officers and twenty-four thousand nine hundred and forty-six enlisted men.

The expenses of the Department for the last fiscal year were \$36,990,903.38, including \$6,294,305.43 for public works and river and harbor improvements.

I especially direct the attention of the Congress to the recommendation that officers be required to submit to an examination as a preliminary to their promotion. I see no objection but many advantages in adopting this feature, which has operated so beneficially in our Navy Department, as well as in some branches of the Army.

The subject of coast defenses and fortifications has been fully and carefully treated by the Board on Fortifications whose report was sub-

mitted at the last session of Congress; but no construction work of the kind recommended by the Board has been possible during the last year from the lack of appropriations for such purpose.

The defenseless condition of our sea-coast and lake frontier is perfectly palpable; the examinations made must convince us all that certain of our cities named in the report of the Board should be fortified, and that work on the most important of these fortifications should be commenced at once; the work has been thoroughly considered and laid out the Secretary of War reports, but all is delayed in default of Congressional action.

The absolute necessity, judged by all standards of prudence and foresight, of our preparation for an effectual resistance against the armored ships and steel guns and mortars of modern construction which may threaten the cities on our coasts, is so apparent that I hope effective steps will be taken in that direction immediately.

The valuable and suggestive treatment of this question by the Secretary of War is earnestly commended to the consideration of the Congress.

In September and October last the hostile Apaches who, under the leadership of Geronimo, had for eighteen months been on the war path, and during that time had committed many murders and been the cause of constant terror to the settlers of Arizona, surrendered to General Miles, the military commander who succeeded General Crook in the management and direction of their pursuit.

Under the terms of their surrender as then reported, and in view of the understanding which these murderous savages seemed to entertain of the assurances given them, it was considered best to imprison them in such manner as to prevent their ever engaging in such outrages again, instead of trying them for murder. Fort Pickens having been selected as a safe place of confinement, all the adult males were sent thither and will be closely guarded as prisoners. In the meantime the residue of the band, who though still remaining upon the reservation were regarded as unsafe, and suspected of furnishing aid to those on the war path, had been removed to Fort Marion. The women and larger children of the hostiles were also taken there, and arrangements have been made for putting the children of proper age in Indian schools.

The report of the Secretary of the Navy contains a detailed exhibit of the condition of his Department with such a statement of the action needed to improve the same as should challenge the earnest attention of the Congress.

The present Navy of the United States, aside from the ships in course of construction, consists of—

First, fourteen single-turreted monitors, none of which are in commission, nor at the present time serviceable. The batteries of these ships are obsolete, and they can only be relied upon as auxiliary ships in harbor defense, and then after such an expenditure upon them as might not be deemed justifiable.

Second, five fourth-rate vessels of small tonnage, only one of which was designed as a war vessel, and all of which are auxiliary, merely.

Third, twenty-seven cruising ships, three of which are built of iron, of small tonnage, and twenty-four of wood. Of these wooden vessels it is estimated by the Chief Constructor of the Navy that only three will be serviceable beyond a period of six years, at which time it may be said that of the present naval force nothing worthy the name will remain.

All the vessels heretofore authorized are under contract or in course of construction, except the armored ships, the torpedo and dynamite boats, and one cruiser. As to the last of these, the bids were in excess of the limit fixed by Congress. The production in the United States of armor and gun-steel is a question which it seems necessary to settle at an early day, if the armored war vessels are to be completed with those materials of home manufacture. This has been the subject of investigation by two Boards, and by two Special Committees of Congress within the last three years. The report of the Gun Foundry Board in 1884, of the Board on Fortifications made in January last, and the reports of the Select Committees of the two Houses made at the last session of Congress, have entirely exhausted the subject, so far as preliminary investigation is involved, and in their recommendations they are substantially agreed.

In the event that the present invitation of the Department for bids to furnish such of this material as is now authorized, shall fail to induce domestic manufacturers to undertake the large expenditures required to prepare for this new manufacture, and no other steps are taken by Congress at its coming session, the Secretary contemplates with dissatisfaction the necessity of obtaining abroad the armor and the gun-steel for the authorized ships. It would seem desirable that the wants of the Army and the Navy in this regard should be reasonably met, and that by uniting their contracts, such inducement might be offered as would result in securing the domestication of these important interests.

The affairs of the postal service show marked and gratifying improvement during the past year. A particular account of its transactions and condition is given in the report of the Postmaster-General which will be laid before you.



The reduction of the rate of letter postage in 1883, rendering the postal revenues inadequate to sustain the expenditures, and business depression also contributing, resulted in an excess of cost for the fiscal year ended June 30, 1885, of eight and one-third millions of dollars. An additional check upon receipts by doubling the measure of weight in rating sealed correspondence and diminishing one-half the charge for newspaper carriage, was imposed by legislation which took effect with the beginning of the past fiscal year; while the constant demand of our territorial development and growing population, for the extension and increase of mail facilities and machinery, necessitates steady annual advance in outlay; and the careful estimate of a year ago upon the rates of expenditure then existing, contemplated the unavoidable augmentation of the deficiency in the last fiscal year by nearly two millions of dollars. The anticipated revenue for the last year failed of realization by about \$64,000; but proper measures of economy have so satisfactorily limited the growth of expenditure, that the total deficiency, in fact, fell below that of 1885; and at this time the increase of revenue is in a gaining ratio over the increase of cost, demonstrating the sufficiency of the present rates of postage ultimately to sustain the service. This is the more pleasing because our people enjoy now both cheaper postage, proportionably to distances, and a vaster and more costly service, than any other upon the globe.

Retrenchment has been effected in the cost of supplies, some expenditures unwarranted by law have ceased, and the outlays for mail carriage have been subjected to beneficial scrutiny. At the close of the last fiscal year the expense of transportation on star routes stood at an annual rate of cost less by over \$560,000 than at the close of the previous year; and steamboat and mail-messenger service at nearly \$200,000 less.

The service has been in the meantime enlarged and extended by the establishment of new offices, increase of routes of carriage, expansion of carrier delivery conveniences, and additions to the railway mail facilities, in accordance with the growing exigencies of the country and the long-established policy of the Government.

The Postmaster-General calls attention to the existing law for compensating railroads, and expresses the opinion that a method may be devised which will prove more just to the carriers and beneficial to the Government; and the subject appears worthy of your early consideration.

The differences which arose during the year with certain of the ocean steamship companies, have terminated by the acquiescence of all in the policy of the Government approved by the Congress in

the postal appropriation at its last session; and the Department now enjoys the utmost service afforded by all vessels which sail from our ports upon either ocean—a service generally adequate to the needs of our intercourse. Petitions have however been presented to the Department by numerous merchants and manufacturers for the establishment of a direct service to the Argentine Republic and for semi-monthly dispatches to the Empire of Brazil; and the subject is commended to your consideration. It is an obvious duty to provide the means of postal communication which our commerce requires, and with prudent forecast of results, the wise extension of it may lead to stimulating intercourse and become the harbinger of a profitable traffic, which will open new avenues for the disposition of the products of our industry. The circumstances of the countries at the far south of our continent, are such as to invite our enterprise and afford the promise of sufficient advantages to justify an unusual effort to bring about the closer relations which greater freedom of communication would tend to establish.

I suggest that as distinguished from a grant or subsidy for the mere benefit of any line of trade or travel, whatever outlay may be required to secure additional postal service, necessary and proper and not otherwise attainable, should be regarded as within the limit of legitimate compensation for such service.

The extension of the free-delivery service as suggested by the Postmaster-General has heretofore received my sanction, and it is to be hoped a suitable enactment may soon be agreed upon.

The request for an appropriation sufficient to enable the general inspection of fourth-class offices has my approbation.

I renew my approval of the recommendation of the Postmaster-General that another assistant be provided for the Post-Office Department; and I invite your attention to the several other recommendations in his report.

The conduct of the Department of Justice for the last fiscal year is fully detailed in the report of the Attorney-General, and I invite the earnest attention of the Congress to the same, and due consideration of the recommendations therein contained.

In the report submitted by this officer to the last session of the Congress he strongly recommended the erection of a penitentiary for the confinement of prisoners convicted and sentenced in the United States courts; and he repeats the recommendation in his report for the last year.

This is a matter of very great importance and should at once receive Congressional action. United States prisoners are now con-

fined in more than thirty different State prisons and penitentiaries scattered in every part of the country. They are subjected to nearly as many different modes of treatment and discipline and are far too much removed from the control and regulation of the Government. So far as they are entitled to humane treatment and an opportunity for improvement and reformation, the Government is responsible to them and society that these things are forthcoming. But this duty can scarcely be discharged without more absolute control and direction than is possible under the present system.

Many of our good citizens have interested themselves, with the most beneficial results, in the question of prison reform. The General Government should be in a situation, since there must be United States prisoners, to furnish important aid in this movement, and should be able to illustrate what may be practically done in the direction of this reform and to present an example in the treatment and improvement of its prisoners worthy of imitation.

With prisons under its own control, the Government could deal with the somewhat vexed question of convict labor, so far as its convicts were concerned, according to a plan of its own adoption, and with due regard to the rights and interests of our laboring citizens, instead of sometimes aiding in the operation of a system which causes among them irritation and discontent.

Upon consideration of this subject it might be thought wise to erect more than one of these institutions, located in such places as would best subserve the purposes of convenience and economy in transportation. The considerable cost of maintaining these convicts as at present, in State institutions, would be saved by the adoption of the plan proposed; and by employing them in the manufacture of such articles as were needed for use by the Government, quite a large pecuniary benefit would be realized in partial return for our outlay.

I again urge a change in the Federal judicial system to meet the wants of the people and obviate the delays necessarily attending the present condition of affairs in our courts. All are agreed that something should be done, and much favor is shown by those well able to advise, to the plan suggested by the Attorney-General at the last session of the Congress and recommended in my last annual message. This recommendation is here renewed, together with another made at the same time, touching a change in the manner of compensating district attorneys and marshals; and the latter subject is commended to the Congress for its action, in the interest of economy to the Government, and humanity, fairness, and justice to our people.

The report of the Secretary of the Interior presents a comprehensive summary of the work of the various branches of the public service connected with his Department; and the suggestions and recommendations which it contains for the improvement of the service should receive your careful consideration.

The exhibit made of the condition of our Indian population and the progress of the work for their enlightenment, notwithstanding the many embarrassments which hinder the better administration of this important branch of the service, is a gratifying and hopeful one.

The funds appropriated for the Indian service for the fiscal year just passed, with the available income from Indian land and trust moneys, amounting in all to \$7,850,775.12, were ample for the service under the conditions and restrictions of laws regulating their expenditure. There remained a balance on hand on June 30, 1886, of \$1,660,023.30, of which \$1,337,768.21 are permanent funds for fulfillment of treaties, and other like purposes, and the remainder, \$322,255.09, is subject to be carried to the surplus fund as required by law.

The estimates presented for appropriations for the ensuing fiscal year amount to \$5,608,873.64, or \$442,386.20 less than those laid before the Congress last year.

The present system of agencies, while absolutely necessary and well adapted for the management of our Indian affairs and for the ends in view, when it was adopted, is in the present stage of Indian management inadequate, standing alone, for the accomplishment of an object which has become pressing in its importance—the more rapid transition from tribal organizations to citizenship, of such portions of the Indians as are capable of civilized life.

When the existing system was adopted the Indian race was outside of the limits of organized States and Territories, and beyond the immediate reach and operation of civilization; and all efforts were mainly directed to the maintenance of friendly relations and the preservation of peace and quiet on the frontier. All this is now changed. There is no such thing as the Indian frontier. Civilization, with the busy hum of industry and the influences of Christianity, surrounds these people at every point. None of the tribes are outside of the bounds of organized government and society, except that the territorial system has not been extended over that portion of the country known as the Indian Territory. As a race the Indians are no longer hostile but may be considered as submissive to the control of the Government; few of them only are troublesome. Except the fragments of several bands all are now gathered upon reservations.



It is no longer possible for them to subsist by the chase and the spontaneous productions of the earth.

With an abundance of land, if furnished with the means and implements for profitable husbandry, their life of entire dependence upon Government rations from day to day is no longer defensible. Their inclination, long fostered by a defective system of control, is to cling to the habits and customs of their ancestors and struggle with persistence against the change of life which their altered circumstances press upon them. But barbarism and civilization cannot live together. It is impossible that such incongruous conditions should coexist on the same soil.

They are a portion of our people, are under the authority of our Government, and have a peculiar claim upon and are entitled to, the fostering care and protection of the nation. The Government cannot relieve itself of this responsibility until they are so far trained and civilized as to be able wholly to manage and care for themselves. The paths in which they should walk must be clearly marked out for them and they must be led or guided until they are familiar with the way and competent to assume the duties and responsibilities of our citizenship.

Progress in this great work will continue only at the present slow pace and at great expense, unless the system and methods of management are improved to meet the changed conditions and urgent demands of the service.

The agents having general charge and supervision in many cases of more than five thousand Indians, scattered over large reservations, and burdened with the details of accountability for funds and supplies, have time to look after the industrial training and improvement of a few Indians only; the many are neglected and remain idle and dependent—conditions not favorable for progress in civilization.

The compensation allowed these agents and the conditions of the service, are not calculated to secure for the work men who are fitted by ability and skill to properly plan and intelligently direct the methods best adapted to produce the most speedy results and permanent benefits.

Hence the necessity for a supplemental agency or system, directed to the end of promoting the general and more rapid transition of the tribes from habits and customs of barbarism to the ways of civilization.

With an anxious desire to devise some plan of operation by which to secure the welfare of the Indians, and to relieve the Treasury as far as possible from the support of an idle and dependent population, I recommended in my previous annual message the passage of a law

authorizing the appointment of a commission as an instrumentality auxiliary to those already established, for the care of the Indians. It was designed that this commission should be composed of six intelligent and capable persons—three to be detailed from the Army—having practical ideas upon the subject of the treatment of Indians, and interested in their welfare; and that it should be charged, under the direction of the Secretary of the Interior, with the management of such matters of detail as cannot with the present organization be properly and successfully conducted, and which present different phases, as the Indians themselves differ, in their progress, needs, disposition, and capacity for improvement or immediate self-support.

By the aid of such a commission much unwise and useless expenditure of money, waste of materials, and unavailing efforts might be avoided; and it is hoped that this or some measure which the wisdom of Congress may better devise, to supply the deficiency of the present system, may receive your consideration, and the appropriate legislation be provided.

The time is ripe for the work of such an agency.

There is less opposition to the education and training of the Indian youth, as shown by the increased attendance upon the schools, and there is a yielding tendency for the individual holding of lands. Development and advancement in these directions are essential, and should have every encouragement. As the rising generation are taught the language of civilization and trained in habits of industry, they should assume the duties, privileges, and responsibilities of citizenship.

No obstacle should hinder the location and settlement of any Indian willing to take land in severalty; on the contrary, the inclination to do so should be stimulated at all times when proper and expedient. But there is no authority of law for making allotments on some of the reservations, and on others the allotments provided for are so small, that the Indians, though ready and desiring to settle down, are not willing to accept such small areas, when their reservations contain ample lands to afford them homesteads of sufficient size to meet their present and future needs.

These inequalities of existing special laws and treaties, should be corrected and some general legislation on the subject should be provided, so that the more progressive members of the different tribes may be settled upon homesteads, and by their example lead others to follow, breaking away from tribal customs and substituting therefor the love of home, the interest of the family, and the rule of the state.

The Indian character and nature are such that they are not easily led while brooding over unadjusted wrongs. This is especially so

regarding their lands. Matters arising from the construction and operation of railroads across some of the reservations, and claims of title and right of occupancy set up by white persons to some of the best land within other reservations, require legislation for their final adjustment.

The settlement of these matters will remove many embarrassments to progress in the work of leading the Indians to the adoption of our institutions and bringing them under the operation, the influence, and the protection of the universal laws of our country.

The recommendations of the Secretary of the Interior and the Commissioner of the General Land Office looking to the better protection of public lands and of the public surveys, the preservation of national forests, the adjudication of grants to States and corporations and of private land claims, and the increased efficiency of the public land service, are commended to the attention of Congress. To secure the widest distribution of public lands in limited quantities among settlers for residence and cultivation and thus make the greatest number of individual homes, was the primary object of the public land legislation in the early days of the republic. This system was a simple one. It commenced with an admirable scheme of public surveys, by which the humblest citizen could identify the tract upon which he wished to establish his home. The price of lands was placed within the reach of all the enterprising, industrious, and honest pioneer citizens of the country. It was soon, however, found that the object of the laws was perverted under the system of cash sales, from a distribution of land among the people to an accumulation of land capital by wealthy and speculative persons. To check this tendency a preference right of purchase was given to settlers on the land, a plan which culminated in the general pre-emption act of 1841. The foundation of this system was actual residence and cultivation. Twenty years later the homestead law was devised to more surely place actual homes in the possession of actual cultivators of the soil. The land was given without price, the sole conditions being residence, improvement, and cultivation. Other laws have followed, each designed to encourage the acquirement and use of land in limited individual quantities. But in later years these laws through vicious administrative methods and under changed conditions of communication and transportation, have been so evaded and violated that their beneficent purpose is threatened with entire defeat. The methods of such evasions and violations are set forth in detail in the reports of the Secretary of the Interior and Commissioner of the General Land Office. The rapid appropriation of our public lands without bona

fide settlements or cultivation; and not only without intention of residence, but for the purpose of their aggregation in large holdings, in many cases in the hands of foreigners, invites the serious and immediate attention of the Congress.

The energies of the land department have been devoted during the present administration to remedy defects and correct abuses in the public land service. The results of these efforts are so largely in the nature of reforms in the processes and methods of our land system as to prevent adequate estimate; but it appears by a compilation from the reports of the Commissioner of the General Land Office that the immediate effect in leading cases which have come to a final termination has been the restoration to the mass of public lands of two million seven hundred and fifty thousand acres; that two million three hundred and seventy thousand acres are embraced in investigations now pending before the Department or the courts, and that the action of Congress has been asked to effect the restoration of two million seven hundred and ninety thousand acres additional; besides which four million acres have been withheld from reservation, and the rights of entry thereon maintained.

I recommend the repeal of the pre-emption and timber-culture acts, and that the homestead laws be so amended as to better secure compliance with their requirements of residence, improvement, and cultivation for the period of five years from date of entry, without commutation or provision for speculative relinquishment. I also recommend the repeal of the desert-land laws unless it shall be the pleasure of the Congress to so amend these laws as to render them less liable to abuses. As the chief motive for an evasion of the laws, and the principal cause of their result in land accumulation instead of land distribution, is the facility with which transfers are made of the right intended to be secured to settlers, it may be deemed advisable to provide by legislation some guards and checks upon the alienation of homestead rights and lands covered thereby until patents issue.

Last year an executive proclamation was issued directing the removal of fences which inclosed the public domain. Many of these have been removed in obedience to such order; but much of the public land still remains within the lines of these unlawful fences. The ingenious methods resorted to in order to continue these trespasses and the hardihood of the pretenses by which in some cases such inclosures are justified, are fully detailed in the report of the Secretary of the Interior.

The removal of the fences still remaining which inclose public lands, will be enforced with all the authority and means with which



the executive branch of the Government is or shall be invested by the Congress for that purpose.

The report of the Commissioner of Pensions contains a detailed and most satisfactory exhibit of the operations of the Pension Bureau during the last fiscal year. The amount of work done was the largest in any year since the organization of the bureau; and it has been done at less cost than during the previous year in every division.

On the thirtieth day of June, 1886, there were 365,783 pensioners on the rolls of the bureau.

Since 1861 there have been 1,018,735 applications for pensions filed, of which 78,834 were based upon service in the war of 1812. There were 621,754 of these applications allowed, including 60,178 to the soldiers of 1812 and their widows.

The total amount paid for pensions since 1861 is \$808,624,811.57.

The number of new pensions allowed during the year ended June 30, 1886, is 40,857—a larger number than has been allowed in any year save one since 1861; the names of 2,229 pensioners which had been previously dropped from the rolls, were restored during the year, and after deducting those dropped within the same time for various causes, a net increase remains for the year of 20,658 names.

From January 1, 1861, to December 1, 1885, 1,967 private pension acts had been passed. Since the last-mentioned date, and during the last session of the Congress, 644 such acts became laws.

It seems to me that no one can examine our pension establishment and its operations, without being convinced that through its instrumentality justice can be very nearly done to all who are entitled under present laws to the pension bounty of the Government.

But it is undeniable that cases exist, well entitled to relief, in which the Pension Bureau is powerless to aid. The really worthy cases of this class are such as only lack by misfortune the kind or quantity of proof which the law and regulations of the Bureau require, or which, though their merit is apparent, for some other reason cannot be justly dealt with through general laws. These conditions fully justify application to the Congress and special enactments. But resort to the Congress for a special pension act to overrule the deliberate and careful determination of the Pension Bureau on the merits or to secure favorable action when it could not be expected under the most liberal execution of general laws, it must be admitted, opens the door to the allowance of questionable claims and presents to the legislative and executive branches of the Government applications concededly not within the law and plainly devoid of merit, but so surrounded by sentiment and patriotic feeling that

they are hard to resist. I suppose it will not be denied that many claims for pension are made without merit and that many have been allowed upon fraudulent representations. This has been declared from the Pension Bureau, not only in this, but in prior administrations.

The usefulness and the justice of any system for the distribution of pensions depend upon the equality and uniformity of its operation.

It will be seen from the report of the Commissioner that there are now paid by the Government one hundred and thirty-one different rates of pension.

He estimates from the best information he can obtain that nine thousand of those who have served in the Army and Navy of the United States are now supported, in whole or in part, from public funds or by organized charities, exclusive of those in soldiers' homes under the direction and control of the Government. Only 13 per cent. of these are pensioners, while of the entire number of men furnished for the late war something like 20 per cent., including their widows and relatives, have been or now are in the receipt of pensions.

The American people, with a patriotic and grateful regard for our ex-soldiers—too broad and too sacred to be monopolized by any special advocates—are not only willing but anxious that equal and exact justice should be done to all honest claimants for pensions. In their sight the friendless and destitute soldier, dependent on public charity, if otherwise entitled, has precisely the same right to share in the provision made for those who fought their country's battles as those better able, through friends and influence, to push their claims. Every pension that is granted under our present plan upon any other grounds than actual service and injury or disease incurred in such service, and every instance of the many in which pensions are increased on other grounds than the merits of the claim, work an injustice to the brave and crippled, but poor and friendless soldier, who is entirely neglected or who must be content with the smallest sum allowed under general laws.

There are far too many neighborhoods in which are found glaring cases of inequality of treatment in the matter of pensions; and they are largely due to a yielding in the Pension Bureau to importunity on the part of those, other than the pensioner, who are especially interested, or they arise from special acts passed for the benefit of individuals.

The men who fought side by side should stand side by side when they participate in a grateful nation's kind remembrance.

Every consideration of fairness and justice to our ex-soldiers, and the protection of the patriotic instinct of our citizens from perversion and violation, point to the adoption of a pension system broad and comprehensive enough to cover every contingency, and which shall make unnecessary an objectionable volume of special legislation.

As long as we adhere to the principle of granting pensions for service, and disability as the result of the service, the allowance of pensions should be restricted to cases presenting these features.

Every patriotic heart responds to a tender consideration for those who, having served their country long and well, are reduced to destitution and dependence, not as an incident of their service, but with advancing age or through sickness or misfortune. We are all tempted by the contemplation of such a condition to supply relief, and are often impatient of the limitations of public duty. Yielding to no one in the desire to indulge this feeling of consideration, I cannot rid myself of the conviction that if these ex-soldiers are to be relieved, they and their cause are entitled to the benefit of an enactment, under which relief may be claimed as a right, and that such relief should be granted under the sanction of law, not in evasion of it; nor should such worthy objects of care, all equally entitled, be remitted to the unequal operation of sympathy, or the tender mercies of social and political influence with their unjust discriminations.

The discharged soldiers and sailors of the country are our fellow-citizens, and interested with us in the passage and faithful execution of wholesome laws. They cannot be swerved from their duty of citizenship by artful appeals to their spirit of brotherhood born of common peril and suffering, nor will they exact as a test of devotion to their welfare a willingness to neglect public duty in their behalf.

On the 4th of March, 1885, the current business of the Patent Office was, on an average, five and a half months in arrears, and, in several divisions, more than twelve months behind. At the close of the last fiscal year such current work was but three months in arrears, and it is asserted and believed that in the next few months the delay in obtaining an examination of an application for a patent will be but nominal.

The number of applications for patents during the last fiscal year, including reissues, designs, trade-marks, and labels, equals 40,678, which is considerably in excess of the number received during any preceding year.

The receipts of the Patent Office during the year aggregate \$1,205,-167.80, enabling the office to turn into the Treasury a surplus revenue, over and above all expenditures, of about \$163,710.30.

The number of patents granted during the last fiscal year, including reissues, trade-marks, designs, and labels, was 25,619—a number also quite largely in excess of that of any preceding year.

The report of the Commissioner shows the office to be in a prosperous condition and constantly increasing in its business. No increase of force is asked for.

The amount estimated for the fiscal year ending June 30, 1886, was \$890,760. The amount estimated for the year ending June 30, 1887, was \$853,960. The amount estimated for the fiscal year ending June 30, 1888, is \$778,770.

The Secretary of the Interior suggests a change in the plan for the payment of the indebtedness of the Pacific subsidized roads to the Government. His suggestion has the unanimous endorsement of the persons selected by the Government to act as directors of these roads and protect the interests of the United States in the board of direction. In considering the plan proposed the sole matters which should be taken into account, in my opinion, are the situation of the Government as a creditor, and the surest way to secure the payment of the principal and interest of its debt.

By a recent decision of the Supreme Court of the United States it has been adjudged that the laws of the several States are inoperative to regulate rates of transportation upon railroads, if such regulation interferes with the rate of carriage from one State into another. This important field of control and regulation having been thus left entirely unoccupied, the expediency of Federal action upon the subject is worthy of consideration.

The relations of labor to capital and of laboring men to their employers are of the utmost concern to every patriotic citizen. When these are strained and distorted, unjustifiable claims are apt to be insisted upon by both interests, and in the controversy which results, the welfare of all and the prosperity of the country are jeopardized. Any intervention of the General Government, within the limits of its constitutional authority, to avert such a condition, should be willingly accorded.

In a special message transmitted to the Congress at its last session I suggested the enlargement of our present Labor Bureau and adding to its present functions the power of arbitration in cases where differences arise between employer and employed. When these differences reach such a stage as to result in the interruption of commerce between the States, the application of this remedy by the General Government might be regarded as entirely within its constitutional



powers. And I think we might reasonably hope that such arbitrators, if carefully selected and if entitled to the confidence of the parties to be affected, would be voluntarily called to the settlement of controversies of less extent and not necessarily within the domain of Federal regulation.

I am of the opinion that this suggestion is worthy the attention of the Congress.

But after all has been done by the passage of laws either Federal or State to relieve a situation full of solicitude, much more remains to be accomplished by the reinstatement and cultivation of a true American sentiment which recognizes the equality of American citizenship. This, in the light of our traditions and in loyalty to the spirit of our institutions, would teach that a hearty co-operation on the part of all interests is the surest path to national greatness and the happiness of all our people, that capital should, in recognition of the brotherhood of our citizenship and in a spirit of American fairness, generously accord to labor its just compensation and consideration, and that contented labor is capital's best protection and faithful ally. It would teach, too, that the diverse situations of our people are inseparable from our civilization, that every citizen should, in his sphere, be a contributor to the general good, that capital does not necessarily tend to the oppression of labor, and that violent disturbances and disorders alienate from their promoters true American sympathy and kindly feeling.

The Department of Agriculture, representing the oldest and largest of our national industries, is subserving well the purposes of its organization. By the introduction of new subjects of farming enterprise, and by opening new sources of agricultural wealth and the dissemination of early information concerning production and prices, it has contributed largely to the country's prosperity. Through this agency, advanced thought and investigation touching the subjects it has in charge, should, among other things, be practically applied to the home production at a low cost of articles of food which are now imported from abroad. Such an innovation will necessarily of course in the beginning be within the domain of intelligent experiment; and the subject in every stage should receive all possible encouragement from the Government.

The interests of millions of our citizens engaged in agriculture are involved in an enlargement and improvement of the results of their labor; and a zealous regard for their welfare should be a willing tribute to those whose productive returns are a main source of our progress and power.

The existence of pleuro-pneumonia among the cattle of various States has led to burdensome and in some cases disastrous restrictions in an important branch of our commerce, threatening to affect the quantity and quality of our food supply. This is a matter of such importance and of such far-reaching consequences, that I hope it will engage the serious attention of the Congress, to the end that such a remedy may be applied as the limits of a constitutional delegation of power to the General Government will permit.

I commend to the consideration of the Congress the report of the Commissioner, and his suggestions concerning the interest intrusted to his care.

The continued operation of the law relating to our Civil Service has added the most convincing proofs of its necessity and usefulness. It is a fact worthy of note that every public officer who has a just idea of his duty to the people, testifies to the value of this reform. Its staunchest friends are found among those who understand it best, and its warmest supporters are those who are restrained and protected by its requirements.

The meaning of such restraint and protection is not appreciated by those who want places under the Government, regardless of merit and efficiency, nor by those who insist that the selection for such places should rest upon a proper credential showing active partisan work. They mean to public officers, if not their lives, the only opportunity afforded them to attend to public business, and they mean to the good people of the country the better performance of the work of their Government.

It is exceedingly strange that the scope and nature of this reform are so little understood, and that so many things not included within its plan are called by its name. When cavil yields more fully to examination the system will have large additions to the number of its friends.

Our Civil-Service reform may be imperfect in some of its details; it may be misunderstood and opposed; it may not always be faithfully applied; its designs may sometimes miscarry through mistake or willful intent; it may sometimes tremble under the assaults of its enemies or languish under the misguided zeal of impracticable friends; but if the people of this country ever submit to the banishment of its underlying principle from the operation of their Government, they will abandon the surest guarantee of the safety and success of American institutions.

I invoke for this reform the cheerful and ungrudging support of the Congress. I renew my recommendation made last year that the

salaries of the Commissioners be made equal to other officers of the Government having like duties and responsibilities, and I hope that such reasonable appropriations may be made as will enable them to increase the usefulness of the cause they have in charge.

I desire to call the attention of the Congress to a plain duty which the Government owes to the depositors in the Freedman's Savings and Trust Company.

This company was chartered by the Congress for the benefit of the most illiterate and humble of our people, and with the intention of encouraging in them industry and thrift. Most of its branches were presided over by officers holding the commissions and clothed in the uniform of the United States. These and other circumstances reasonably, I think, led these simple people to suppose that the invitation to deposit their hard-earned savings in this institution implied an undertaking on the part of their Government that their money should be safely kept for them.

When this company failed it was liable in the sum of \$2,939,925.22 to 61,131 depositors. Dividends amounting in the aggregate to sixty-two per cent. have been declared, and the sum called for and paid of such dividends seems to be \$1,648,181.72. This sum deducted from the entire amount of deposits leaves \$1,291,744.50 still unpaid. Past experience has shown that quite a large part of this sum will not be called for. There are assets still on hand amounting to the estimated sum of \$16,000.

I think the remaining thirty-eight per cent. of such of these deposits as have claimants should be paid by the Government, upon principles of equity and fairness.

The report of the Commissioner, soon to be laid before Congress, will give more satisfactory details on this subject.

The control of the affairs of the District of Columbia having been placed in the hands of purely executive officers, while the Congress still retains all legislative authority relating to its government, it becomes my duty to make known the most pressing needs of the District and recommend their consideration.

The laws of the District appear to be in an uncertain and unsatisfactory condition, and their codification or revision is much needed.

During the past year one of the bridges leading from the District to the State of Virginia became unfit for use, and travel upon it was forbidden. This leads me to suggest that the improvement of all the bridges crossing the Potomac and its branches, from the city of Washington, is worthy of the attention of Congress.

The Commissioners of the District represent that the laws regulating the sale of liquor and granting licenses therefor should be at once amended, and that legislation is needed to consolidate, define, and enlarge the scope and powers of charitable and penal institutions within the District.

I suggest that the Commissioners be clothed with the power to make, within fixed limitations, police regulations. I believe this power granted and carefully guarded, would tend to subserve the good order of the municipality.

It seems that trouble still exists growing out of the occupation of the streets and avenues by certain railroads having their termini in the city. It is very important that such laws should be enacted upon this subject as will secure to the railroads all the facilities they require for the transaction of their business, and at the same time protect citizens from injury to their persons or property.

The Commissioners again complain that the accommodations afforded them for the necessary offices for District business, and for the safe keeping of valuable books and papers, are entirely insufficient. I recommend that this condition of affairs be remedied by the Congress, and that suitable quarters be furnished for the needs of the District government.

In conclusion, I earnestly invoke such wise action on the part of the people's legislators, as will subserve the public good and demonstrate during the remaining days of the Congress as at present organized, its ability and inclination to so meet the people's needs that it shall be gratefully remembered by an expectant constituency.

GROVER CLEVELAND.

WASHINGTON,

*December 6, 1886.*





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# FOREIGN RELATIONS.

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| 253 | Mr. Willard to Mr. Bayard (telegram).                   | July 3  | Fisheries: Seizure reported of the American fishing vessel George W. Cushing at Shelburne; charged with seeking bait and not reporting at custom-house; instructions asked.                                                                                                                                                                                                                            | 507   |
| 254 | Messrs. Cushing and McKenney to Mr. Bayard. (telegram). | July 3  | Fisheries: Seizure reported of the American fishing vessel City Point, at Shelburne, Nova Scotia, for taking in water and allowing men ashore before reporting at custom-house; instructions asked.                                                                                                                                                                                                    | 507   |
| 255 | Mr. Woodbury to Mr. Bayard.                             | July 7  | Fisheries: Canadian laws affecting purchase of bait; twelve affidavits of Gloucester fishermen, showing their reversed administration without notice, inclosed.                                                                                                                                                                                                                                        | 507   |
| 256 | Mr. Willard to Mr. Bayard..                             | July 7  | Fisheries; Seizure of the American fishing vessel George W. Cushing at Shelburne, charged with seeking bait, and not reporting at custom-house; vessel was allowed to depart for Canada on understanding that American vessels would be accorded same privileges as are given Canadian vessels in United States ports; fine of \$600 has been imposed; opinion as to course United States should take. | 511   |
| 257 | Mr. Bayard to Mr. Willard..                             | July 9  | Fisheries: Seizure of the George W. Cushing at Shelburne, Nova Scotia; consul-general at Halifax has been instructed to report facts; United States will seek to secure redress and compensation for all unlawful deprivation of property or commercial rights.                                                                                                                                        | 513   |
| 258 | Mr. Boutelle to Mr. Bayard (telegram).                  | July 10 | Fisheries: Expulsion of American boats from St. Andrews, New Brunswick, there for the purpose of purchasing herring caught in Canadian weirs for canning, reported; American boats refused permission to take herring for any purpose.                                                                                                                                                                 | 513   |
| 259 | Mr. Bayard to Mr. Boutelle..                            | July 10 | Fisheries: Expulsion of American boats from St. Andrews, New Brunswick, there for the purpose of purchasing herring caught in Canadian weirs for canning; action taken; facts in each case desired.                                                                                                                                                                                                    | 514   |
| 260 | Mr. Bayard to Mr. Woodbury.                             | July 13 | Fisheries: Canadian laws affecting purchase of bait; letter of 7th July will be considered in connection with claims for compensation.                                                                                                                                                                                                                                                                 | 514   |
| 261 | Mr. Boutelle to Mr. Bayard..                            | July 14 | Fisheries: Refusal to allow Stephen R. Balkam to purchase herring at St. Andrews, New Brunswick, affidavit of Mr. Balkam inclosed.                                                                                                                                                                                                                                                                     | 515   |
| 262 | Mr. Bayard to Mr. Boutelle..                            | July 15 | Fisheries: Refusal to allow Stephen R. Balkam to purchase herring at St. Andrews, New Brunswick; acknowledges letter of July 14.                                                                                                                                                                                                                                                                       | 515   |
| 263 | Mr. Woodbury to Mr. Bayard.                             | July 28 | Fisheries: Cases of the Thomas F. Bayard and the Mascot; refusal by British Government to ratify Newfoundland laws prohibiting sale of bait referred to; letter and affidavit of captain of the Thomas F. Bayard and affidavit of captain of the Mascot inclosed.                                                                                                                                      | 516   |
| 264 | Mr. Bayard to Mr. Woodbury.                             | July 30 | Fisheries: Cases of the Thomas F. Bayard and the Mascot; action taken by United States.                                                                                                                                                                                                                                                                                                                | 517   |
| 265 | Mr. Woodbury to Mr. Bayard.                             | July 30 | Fisheries: Case of the Thomas F. Bayard; affidavit of captain and crew inclosed.                                                                                                                                                                                                                                                                                                                       | 517   |
| 266 | Mr. Bayard to Mr. Woodbury.                             | July 31 | Fisheries: Case of the Thomas F. Bayard; acknowledges letter of July 30.                                                                                                                                                                                                                                                                                                                               | 518   |
| 267 | Mr. Presson to Mr. Bayard..                             | Aug. 9  | Fisheries: Detention of the American schooner Hereward at Cape Canso, Nova Scotia; affidavit of captain inclosed.                                                                                                                                                                                                                                                                                      | 518   |
| 268 | Same to same.....                                       | Aug. 10 | Fisheries: Unfriendly action to the American schooner Rattler, driven by stress of weather into the harbor of Shelburne, Nova Scotia, for shelter; affidavits of captain and crew inclosed.                                                                                                                                                                                                            | 519   |
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| 270 | Mr. Bayard to Mr. Presson..                             | Aug. 18 | Fisheries: Case of the Golden Hind; reports action taken.                                                                                                                                                                                                                                                                                                                                              | 521   |



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| 271 | Mr. Bayard to Messrs. Cushing and McKenney. | 1886.<br>Aug. 19 | Fisheries: Detention of the City Point at Shelburne, Nova Scotia; vessel charged with committing a breach of Canadian customs laws, and not with violating fishing laws or infringing treaty of 1818; vessel released on deposit of \$400; consul-general at Halifax will watch case.                                                                                           | 522   |
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| 352 | Same to same (No. 91) .....       | Dec. 26 | Proposed modification of the customs tariff of the Netherlands: Petroleum and timber trade of the United States will be seriously affected; statistics given; project of proposed modification inclosed.                                                                                                                                                                                                                                                     | 740   |
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| 353 | Same to same (No. 105) .....      | Jan. 21 | Petroleum: Proposed increase of duty on, in Dutch colonies; Netherlands disclaim any intention of discrimination against United States, and claim that proposed duty will not diminish importation; change of proposed duty to excise tax under consideration; same treatment invited for Netherlands' products in United States as is extended to United States products in the Netherlands; Sumatra tobacco statistics; note from foreign office inclosed. | 741   |
| 354 | Mr. Bayard to Mr. Bell (No. 44).  | Feb. 8  | Sumatra tobacco: United States tariff on tobacco explained; does not discriminate against Sumatra, but affects all countries alike; if discrimination can be shown it will be remedied; Treasury circular regarding classification of tobaccos inclosed.                                                                                                                                                                                                     | 746   |
| 355 | Mr. Bell to Mr. Bayard (No. 112). | Feb. 19 | Proposed increase of duty on imports into the Netherlands: Chambers of commerce of principal Dutch cities protest against it.                                                                                                                                                                                                                                                                                                                                | 748   |
| 356 | Same to same (No. 117) .....      | Feb. 27 | Petroleum: Proposed increase of duty on, in Dutch colonies; modified project reported; duty to remain as at present until introduction of an excise tax.                                                                                                                                                                                                                                                                                                     | 748   |
| 357 | Same to same (No. 179) .....      | Mar. 1  | Sumatra tobacco: Dutch dissatisfaction arising from proposed increase of import tax by United States.                                                                                                                                                                                                                                                                                                                                                        | 749   |
| 358 | Same to same (No. 127) .....      | Mar. 15 | Customs tariff of the East Indies: Its proposed revision; amendments made to original project; double duty on foreign merchandise will probably be rejected; duty on exports from the colonies to be abolished; commodities affected.                                                                                                                                                                                                                        | 749   |
| 359 | Mr. Bayard to Mr. Bell (No. 49).  | Mar. 20 | Sumatra tobacco: Complaint of Holland that it is discriminated against by United States denied; discrimination is against wrapper tobacco, and affects all countries alike.                                                                                                                                                                                                                                                                                  | 750   |
| 360 | Mr. Bell to Mr. Bayard (No. 147). | June 7  | Cereals, import duty on: Would not be to the interest of Holland.                                                                                                                                                                                                                                                                                                                                                                                            | 751   |
| 361 | Same to same (No. 160) .....      | July 23 | Alcoholic liquors: International conference at the Hague to regulate their sale to North Sea fishermen; proceedings reported; reports on floating "grog-shops" inclosed.                                                                                                                                                                                                                                                                                     | 752   |
| 362 | Same to same (No. 161) .....      | July 28 | Political: Subjects to be discussed by the States General.                                                                                                                                                                                                                                                                                                                                                                                                   | 757   |
| 363 | Same to same (No. 162) .....      | July 30 | Riots at Amsterdam caused by the suppression of a popular amusement: The game of "eel-drawing" described.                                                                                                                                                                                                                                                                                                                                                    | 757   |
| 364 | Same to same (No. 166) .....      | Aug. 18 | Petroleum: Its discovery in Java and Sumatra reported.                                                                                                                                                                                                                                                                                                                                                                                                       | 759   |
| 365 | Same to same (No. 168) .....      | Sept. 1 | Labor system of the Netherlands and sugar industry of Java: Proposed parliamentary inquiry into.                                                                                                                                                                                                                                                                                                                                                             | 759   |

## CORRESPONDENCE WITH THE LEGATION OF THE NETHERLANDS AT WASHINGTON.

| No. | From and to whom.                | Date.            | Subject.                                                                                                                                                                              | Page. |
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| 866 | Mr. de Weckherlin to Mr. Bayard. | 1886.<br>Feb. 15 | Sumatra tobacco: Claims that it is discriminated against by United States, and asks that it be put on same footing as tobacco of other countries.                                     | 760   |
| 867 | Mr. Bayard to Mr. de Weckherlin. | Mar. 9           | Sumatra tobacco: Complaint of Holland that it is discriminated against by United States denied; contemplated resort to retaliation by the Netherlands rests on erroneous conclusions. | 761   |

## PERU.

|     |                                  |                  |                                                                                                                                                                                                                                                                          |     |
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| 368 | Mr. Buck to Mr. Bayard (No. 57). | 1885.<br>Dec. 4  | Political: Revolution in Peru; action taken by diplomatic corps to prevent fighting and bloodshed in Lima fruitless; capture of Lima and overthrow of the Iglesias government; provisional government formed; correspondence and action of peace commissioners inclosed. | 762 |
| 369 | Mr. Porter to Mr. Buck (No. 44). | Dec. 30          | Political: Revolution in Peru; action taken by diplomatic corps to prevent bloodshed in Lima commended.                                                                                                                                                                  | 769 |
| 370 | Mr. Buck to Mr. Bayard (No. 95). | 1886.<br>Apr. 24 | Political: Result of elections in Peru; General Cáceres elected president.                                                                                                                                                                                               | 770 |
| 371 | Same to same (No. 116) ....      | June 8           | Political: Official announcement of organization of new government inclosed.                                                                                                                                                                                             | 770 |

## CORRESPONDENCE WITH THE LEGATION OF PORTUGAL AT WASHINGTON.

|     |                                       |                 |                                                                                                              |     |
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| 372 | Viscount das Nogueiras to Mr. Bayard. | 1886.<br>Feb. 6 | Protectorate of Portugal over Dahomey announced; Port of Columnu not included.                               | 771 |
| 373 | Mr. Bayard to Viscount das Nogueiras. | Mar. 3          | Protectorate of Portugal over Dahomey: Vested rights acquired by Americans from natives should be respected. | 772 |

## RUSSIA.

|     |                                     |                  |                                                                                                                                                                                                                                                                         |     |
|-----|-------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| 374 | Mr. Lothrop to Mr. Bayard (No. 77). | 1886.<br>Sept. 7 | Jews in Russia: Foreign Jews not allowed to enter or dwell in Russia; order to an American Jew to leave Russia revoked upon application of legation; no modification of law probable; American Jews intending to visit Russia should first apply for permission.        | 774 |
| 375 | Mr. Bayard to Mr. Lothrop (No. 59). | Sept. 23         | Jews in Russia: Russian laws forbidding their entering or residing in Russia; United States does not admit principle of discriminating against Americans because of their religious tenets; efforts of legation to secure relief should be exerted in any case arising. | 774 |

## CORRESPONDENCE WITH THE LEGATION OF RUSSIA AT WASHINGTON.

|     |                            |                  |                                                                                                                      |     |
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| 376 | Baron Rosen to Mr. Bayard. | 1886.<br>July 20 | International Prison Congress to be held at St. Petersburg in 1890: United States invited to participate.            | 775 |
| 377 | Mr. Bayard to Baron Rosen. | Aug. 6           | International Prison Congress to be held at St. Petersburg in 1890: Attention of Congress will be called to subject. | 776 |

## SPAIN.

| No.  | From and to whom.                       | Date.           | Subject.                                                                                                                                                                                                                                                                                                                                                                                         | Page. |
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| 378  | Mr. Curry to Mr. Bayard<br>(No. 26).    | 1886.<br>Feb. 4 | Caroline Islands: Contention of Germany and Spain as to sovereignty; decision of the Pope as mediator, confirming sovereignty of Spain, and proposed agreement, inclosed.                                                                                                                                                                                                                        | 776   |
| 379  | Mr. Bayard to Mr. Curry<br>(No. 39).    | Feb. 23         | Commercial agreement for suppression of differential flag duties in Cuba and Porto Rico: Failure of Spain to carry out provisions of articles admitting goods under American flag on same terms as if under Spanish flag; if agreement is not carried out, 10 per cent. discriminating duty will be reimposed by United States; protest of American ship-owners inclosed.                        | 778   |
| 380  | Same to same (No. 40).....              | Feb. 24         | Commercial agreement: Discrimination against the United States in violation of agreement; unless revoked at once retaliation will be resorted to; dispatch of consul-general at Havana showing discriminations practiced against the United States, and correspondence showing dues exacted of American vessels inclosed.                                                                        | 781   |
| 381  | Same to same (No. 56) .....             | May 4           | Commercial agreement: Discrimination against United States in violation of agreement; historical review of question; application of agreement discussed; remedial action by Spain desired.                                                                                                                                                                                                       | 791   |
| 382  | Mr. Curry to Mr. Bayard<br>(No. 58).    | May 21          | Commercial agreement: Discriminations against United States in violation of agreement; representations made to Spain inclosed.                                                                                                                                                                                                                                                                   | 795   |
| 383  | Same to same (No. 62) .....             | May 29          | Great Britain and Spain: Commercial agreement between inclosed.                                                                                                                                                                                                                                                                                                                                  | 797   |
| 384  | Same to same (No. 64) .....             | June 5          | Commercial agreement: Orders will be issued by Spain removing differential flag duties, and putting American ships on same footing as Spanish; note from foreign office inclosed.                                                                                                                                                                                                                | 798   |
| 385  | Same to same (No. 69) .....             | June 23         | Commercial agreement: Royal order removing differential flag duties inclosed.                                                                                                                                                                                                                                                                                                                    | 798   |
| 386  | Mr. Bayard to Mr. Curry<br>(No. 91).    | July 9          | Commercial agreement: Spanish vessels admitted in all ports of United States on same terms as vessels of United States.                                                                                                                                                                                                                                                                          | 800   |
| 387  | Same to same (No. 93) .....             | July 12         | Commercial agreement: Acknowledges dispatch of June 23, announcing removal of differential flag duties.                                                                                                                                                                                                                                                                                          | 800   |
| 387½ | Mr. Porter to Mr. Strobel<br>(No. 112). | Aug. 21         | Commercial agreement: Delay in enforcement of royal order for its execution; instructed to call attention to conflict of authority in Cuba; telegram from consul-general at Havana and letter from W. H. T. Hughes inclosed.                                                                                                                                                                     | 800   |
| 388  | Mr. Strobel to Mr. Bayard<br>(No. 111). | Sept. 8         | Commercial agreement: Conflict of authority in Cuba, and delay in enforcement of royal order for execution of agreement; facts presented to foreign office; memorandum inclosed.                                                                                                                                                                                                                 | 801   |
| 389  | Mr. Bayard to Mr. Curry<br>(telegram).  | Sept. 24        | Commercial agreement: Consul-general, Havana, reports that Cuban authorities have been instructed by Spain that only natural products of United States come under third column of tariff, and that foreign products shipped from United States are excluded, thus nullifying agreement made with minister, and that same tonnage dues are collected as previously.                               | 802   |
| 390  | Mr. Curry to Mr. Bayard<br>(No. 119).   | Sept. 29        | Commercial agreement for Cuba and Porto Rico: Nullification of agreement with minister removing differential flag duties reported to foreign office; minister foreign affairs thinks it results from a misunderstanding, as object of order was to equalize flags; Cuban authorities telegraphed for information; memorandum, correspondence with foreign office and newspaper comment inclosed. | 803   |
| 391  | Mr. Potrer to Mr. Curry<br>(telegram).  | Sept. 29        | Commercial agreement: Discriminating duty of 10 per cent. will be reimposed on Spanish vessels if agreement is not promptly enforced.                                                                                                                                                                                                                                                            | 806   |
| 392  | Mr. Curry to Mr. Bayard<br>(telegram).  | Sept. 30        | Commercial agreement: delay in its enforcement: Spain promises immediate action, and asks that 10 per cent. discrimination be not reimposed until definite report is received.                                                                                                                                                                                                                   | 806   |
| 393  | Mr. Porter to Mr. Bayard<br>(Telegram). | Oct. 1          | Commercial agreement: Delay asked for in imposition of 10 per cent. discrimination accorded.                                                                                                                                                                                                                                                                                                     | 807   |
| 394  | Same to same (Telegram)...              | Oct. 4          | Commercial agreement: Delay in its enforcement; asks that a definite answer be sent at an early day.                                                                                                                                                                                                                                                                                             | 807   |



## SPAIN—Continued.

| No. | From and to whom.                      | Date.           | Subject.                                                                                                                                                                                                                                                                                                            | Page. |
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| 395 | Same to same (No. 124) .....           | 1886.<br>Oct. 4 | Commercial agreement: Delay in its enforcement; suspension of 10 per cent. discrimination duties on Spanish vessels will be withdrawn if equivalent on part of Spain is longer withheld; Cuban customs order in violation of agreement inclosed.                                                                    | 807   |
| 396 | Mr. Curry to Mr. Bayard (telegram).    | Oct. 6          | Commercial agreement: Refusal to enforce it by Spain; discriminating duties will continue on foreign goods shipped from the United States.                                                                                                                                                                          | 808   |
| 397 | Mr. Bayard to Mr. Curry (telegram).    | Oct. 13         | Commercial agreement: Refusal to enforce it by Spain; notice given that suspension of 10 per cent. discrimination duty on Spanish vessels in United States ports has been withdrawn to take effect October 25.                                                                                                      | 808   |
| 398 | Mr. Curry to Mr. Bayard (No. 132).     | Oct. 14         | Commercial agreement: Spain informed of the revocation of suspension of 10 per cent. discrimination duty. Correspondence with foreign office inclosed.                                                                                                                                                              | 809   |
| 399 | Mr. Bayard to Mr. Curry (telegram).    | Oct. 16         | Commercial agreement: Discriminating tonnage dues on American vessels continue; any negotiation towards reviving agreement should include tonnage.                                                                                                                                                                  | 810   |
| 400 | Mr. Curry to Mr. Bayard (telegram).    | Oct. 16         | Commercial agreement: Spain proposes that revocation of suspension of 10 per cent. discrimination duties be withheld for one month, so that understanding may be arranged, granting equal treatment to Spanish and American vessels; what is meant by equal treatment.                                              | 810   |
| 401 | Mr. Curry to Mr. Bayard (No. 135).     | Oct. 16         | Commercial agreement: Reimposition of retaliatory duties because of Spain's failure to enforce agreement; Spain proposes a new agreement and postponement of operation of discriminating tax in United States.                                                                                                      | 811   |
| 402 | Mr. Bayard to Mr. Curry (No. 126).     | Oct. 19         | Commercial agreement: Abrogation of, by United States because of Spain's failure to enforce its provisions; propositions of Spain for an understanding as to equal treatment objected to as discriminating against carrying trade of United States.                                                                 | 813   |
| 403 | Same to same (No. 128) .....           | Oct. 20         | Commercial agreement: Approves memorandum to foreign office inclosed in his No. 119, September 29.                                                                                                                                                                                                                  | 814   |
| 404 | Mr. Curry to Mr. Bayard (telegram).    | Oct. 20         | Commercial agreement: Satisfactory arrangement desired by Spain.                                                                                                                                                                                                                                                    | 814   |
| 405 | Mr. Bayard to Mr. Curry (telegram).    | Oct. 21         | Commercial agreement: Revocation of suspension of retaliatory duty will be withdrawn if Spain will levy no discrimination against United States.                                                                                                                                                                    | 814   |
| 406 | Mr. Curry to Mr. Bayard (telegram).    | Oct. 21         | Commercial agreement: Proposals submitted by Spain for a permanent arrangement.                                                                                                                                                                                                                                     | 814   |
| 407 | Same to same (telegram) ...            | Oct. 22         | Commercial agreement: Asks whether inclusion of goods carried in United States ships from foreign countries is indispensable to renewal of agreement.                                                                                                                                                               | 815   |
| 408 | Mr. Bayard to Mr. Curry (telegram).    | Oct. 22         | Commercial agreement: Goods carried in United States vessels from foreign countries must be included in agreement.                                                                                                                                                                                                  | 815   |
| 409 | Mr. Curry to Mr. Bayard (No. 135 bis). | Oct. 22         | Commercial agreement: Efforts made to secure equalization of tonnage dues in Cuba and Porto Rico; representations made to foreign office; minister of foreign affairs says royal order for equal treatment will be sustained when settlement of present commercial differences is reached; correspondence inclosed. | 815   |
| 410 | Same to same (telegram)....            | Oct. 23         | Commercial agreement: Asks if propositions of Spain will be accepted if they include goods from foreign countries in United States vessels.                                                                                                                                                                         | 818   |
| 411 | Mr. Bayard to Mr. Curry (telegram).    | Oct. 23         | Commercial agreement: If foreign cargoes in United States vessels are included in Spanish propositions, discrimination will be suspended on notice of Spain's enforcement of agreement in Cuba and Porto Rico.                                                                                                      | 818   |
| 412 | Same to same (telegram)....            | Oct. 25         | Commercial agreement: Informed of negotiations with Spanish minister; proposition made by Spain to equalize flags without regard to origin of cargo; Spanish minister has asked for authority to sign an agreement to that end.                                                                                     | 818   |
| 413 | Mr. Curry to Mr. Bayard (telegram).    | Oct. 26         | Commercial agreement: Basis upon which Spanish minister is authorized to conclude agreement.                                                                                                                                                                                                                        | 819   |

## SPAIN—Continued.

| No. | From and to whom.                   | Date.            | Subject.                                                                                                                                                                                                            | Page. |
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| 414 | Same to same (No. 133).....         | 1888.<br>Oct. 26 | Commercial agreement: Plan for a new agreement submitted to foreign office and note from minister foreign affairs relative to meaning of agreement of 1884 inclosed.                                                | 819   |
| 415 | Mr. Bayard to Mr. Curry (telegram). | Oct. 27          | Commercial agreement signed and imposition of discriminating duty in United States suspended.                                                                                                                       | 823   |
| 416 | Mr. Curry to Mr. Bayard (No. 140).  | Oct. 27          | Commercial agreement: Negotiations at Madrid; minister of foreign affairs announces termination of negotiations by agreement reached at Washington; correspondence and text of memorandum of agreement inclosed.    | 824   |
| 417 | Mr. Porter to Mr. Curry (No. 133).  | Oct. 28          | Commercial agreement: Proclamation of the President suspending discriminating duties on Spanish vessels, and memorandum of agreement signed between United States and Spain, inclosed.                              | 825   |
| 418 | Mr. Curry to Mr. Bayard (No. 145).  | Nov. 3           | Commercial agreement: Note of foreign office giving Spanish interpretation of agreement of 1884, and Mr. Curry's reply, giving a historical review of negotiations and showing position of United States, inclosed. | 827   |

## CORRESPONDENCE WITH THE LEGATION OF SPAIN AT WASHINGTON.

|     |                             |                  |                                                                                                                                                                                                         |     |
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| 419 | Mr. Valera to Mr. Bayard... | 1888.<br>Feb. 10 | Caroline Islands: Contention of Germany and Spain to sovereignty; protocol between Germany and Spain, and decision of the Pope as mediator confirming the sovereignty of Spain, transmitted.            | 831 |
| 420 | Mr. Bayard to Mr. Valera... | Mar. 2           | Caroline Islands: Agreement between Germany and Spain as to sovereignty; Americans expected to receive same treatment as other foreigners.                                                              | 831 |
| 421 | Mr. Valera to Mr. Bayard... | Mar. 9           | Caroline Islands: Acknowledges note of March 2.                                                                                                                                                         | 832 |
| 422 | Same to same.....           | Mar. 12          | Caroline Islands: Rights of Americans will be respected.                                                                                                                                                | 832 |
| 423 | Mr. Porter to Mr. Valera... | Mar. 25          | Caroline Islands: Rights of Americans; acknowledges note of March 12.                                                                                                                                   | 833 |
| 424 | Mr. Muruaga to Mr. Bayard.  | May 4            | Caroline Islands: Americans will receive as favorable treatment as other foreigners.                                                                                                                    | 834 |
| 425 | Mr. Bayard to Mr. Muruaga.  | May 28           | Caroline Islands: Treatment of Americans; appreciative acknowledgment of note of May 4.                                                                                                                 | 834 |
| 426 | Mr. Bayard to Mr. Muruaga.  | Oct. 14          | Commercial agreement: Proclamation of the President reimposing discriminating duties on Spanish ships inclosed.                                                                                         | 834 |
| 427 | Mr. Muruaga to Mr. Bayard.  | Oct. 16          | Commercial agreement: Revocation of suspension of discriminating duties on Spanish ships; deplores issuance of proclamation.                                                                            | 836 |
| 428 | Same to same.....           | Oct. 23          | Commercial agreement: Revocation of suspension of discriminating duties on Spanish ships; requests the prolongation of peremptory term fixed in President's proclamation.                               | 837 |
| 429 | Mr. Bayard to Mr. Muruaga.  | Oct. 23          | Commercial agreement: Retaliatory duties will be suspended if discrimination against United States vessels be removed by Spain; act to remove certain burdens on the American merchant marine inclosed. | 837 |

## SWEDEN AND NORWAY.

|     |                                   |                 |                                                                                                                                                     |     |
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| 430 | Mr. Magee to Mr. Bayard (No. 42). | 1885.<br>Dec. 4 | Political: Tariff discussion in Sweden and Norway; imports from the United States.                                                                  | 838 |
| 431 | Mr. Porter to Mr. Magee (No. 19). | 1886.<br>Jan. 4 | Deportation of paupers from Sweden to the United States; Dispatch from consul at Gothenberg reporting practice inclosed; instructed to investigate. | 840 |
| 432 | Mr. Magee to Mr. Bayard (No. 51). | Jan. 26         | Deportation of paupers from Sweden to the United States; Sweden discountenances practice and has passed laws to prevent it.                         | 841 |

## SWEDEN AND NORWAY—Continued.

| No. | From and to whom.                 | Date.           | Subject.                                                                                                                               | Page. |
|-----|-----------------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------|-------|
| 433 | Mr. Bayard to Mr. Magee (No. 22). | 1886.<br>Mar. 4 | Deportation of paupers from Sweden to the United States: Instructed to telegraph facts should such deportations come to his knowledge. | 843   |
| 434 | Mr. Magee to Mr. Bayard (No. 54). | Mar. 15         | Political: Proposed import duty on breadstuffs defeated in the Riksdag.                                                                | 842   |
| 435 | Same to same (No. 56) .....       | Mar. 22         | Deportation of paupers from Sweden: Will be vigilant to prevent their departure.                                                       | 843   |
| 436 | Same to same (No. 74) .....       | Nov. 1          | Socialism: Its growth and purposes in Sweden discussed.                                                                                | 844   |

## SWITZERLAND.

|     |                                        |                 |                                                                                                                                                                                                                                                                    |     |
|-----|----------------------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| 437 | Mr. Winchester to Mr. Bayard (No. 61). | 1886.<br>May 25 | Mormon emissaries in Switzerland: Asks whether persons suspected as such, presenting satisfactory proof of American citizenship, may be denied passports.                                                                                                          | 846 |
| 438 | Mr. Bayard to Mr. Winchester (No. 52). | June 9          | Mormon emissaries in Switzerland: Persons conclusively proven to be Mormon agents engaged in proselyting should be denied passports.                                                                                                                               | 847 |
| 439 | Mr. Winchester to Mr. Bayard (No. 65). | June 16         | Political: Swiss Federal Assembly; its manner of conducting business and its composition described.                                                                                                                                                                | 847 |
| 440 | Same to same (No. 66) .....            | June 23         | Mormon emissaries in Switzerland: Issuance of passports to them; work of proselyting carried on clandestinely; positive proof unobtainable; asks that he be allowed to refuse passports on circumstantial evidence establishing a strong and reasonable suspicion. | 850 |
| 441 | Mr. Bayard to Mr. Winchester (No. 59). | July 20         | Mormon emissaries: Passports may be refused persons against whom strong and reasonable suspicions exist.                                                                                                                                                           | 851 |
| 442 | Mr. Winchester to Mr. Bayard (No. 81). | Sept. 13        | International Copyright Conference at Berne: Countries represented; proceedings reported; Mr. Winchester attends without plenipotentiary powers; convention inclosed.                                                                                              | 852 |

## CORRESPONDENCE WITH THE LEGATION OF SWITZERLAND AT WASHINGTON.

|     |                              |                  |                                                                                                                                                                                                                                                                                 |     |
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| 443 | Mr. Frey to Mr. Bayard ....  | 1886.<br>June 21 | International Copyright Conference to be held at Berne in September, 1886: United States invited to be represented.                                                                                                                                                             | 860 |
| 444 | Mr. Bayard to Major Kloss .. | June 20          | International Copyright Conference to be held at Berne in September, 1886: Impracticable for United States to depute a plenipotentiary for purpose of signing proposed convention, but minister in Switzerland will attend as delegate; privilege of future accession reserved. | 861 |

## TURKEY.

|     |                                 |                 |                                                                                                                                                                                                                                                                                            |     |
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| 445 | Mr. Cox to Mr. Bayard (No. 94). | 1886.<br>Jan. 5 | Naturalization: Bureau of Nationality has no final or judicial character, its action being reviewed by minister of foreign affairs; American citizens of Turkish origin naturalized without authorization regarded as Ottoman subjects; regulations of the Bureau of Nationality inclosed. | 862 |
| 446 | Same to same (No. 147) .....    | Apr. 5          | Petroleum: Competition between American and Russian products; report of agent of the Standard Oil Company in Russia and account of discovery of petroleum in Egypt inclosed.                                                                                                               | 865 |

# CORRESPONDENCE.

## ARGENTINE REPUBLIC.

No. 1.

*Mr. Hanna to Mr. Bayard.*

No. 31.]

LEGATION OF THE UNITED STATES,  
BUENOS AYRES, May 15, 1886. (Received June 23.)

SIR: The annual session of the Argentine Congress was formally opened on the 11th instant, with the President's message, read by himself, to both houses of Congress, in the Chamber of Deputies.

President Roca, accompanied by his cabinet ministers, all under the escort of a number of battalions of the regular army, arrived at the chamber entrance promptly at the appointed hour, but immediately on alighting from his carriage was assaulted by Major Ignacio Monges, formerly an officer in the regular army, of the province of Corrientes, and a member of the President's military escort, in a most brutal and deadly manner, and before he could be rescued received from his assailant several ugly cuts about his face and head, which greatly prostrated him. The excitement at once became widespread and appalling, and the great crowd which had gathered in the plaza in front of the House of Deputies, maddened with the spirit of vengeance, at once became wild and threatening. But the military force on the ground, skillfully manœvered by the officers in command, mastered the situation and restored order. The assassin was overpowered almost instantly after the assault by Hon. Carlos Pellegrini, minister of war, who was at the side of the President, and an officer of the army, rushing upon the assailant with drawn saber, would have dispatched him instantly but for the humane interposition of the secretary, who, seconded by the President, said it must not be done. The maddened wretch was arrested and borne off to prison, where he still remains, awaiting trial. All the diplomatic corps was present in the House of Deputies at the time, where the excitement was beyond description. The President, however, was not long detained by the surgeons who dressed his wounds, and with bandaged head ascended to the seat of the speaker and delivered his message.

The message began with a short review of the past year, but soon extended to the past six years of the closing administration. The President congratulated the nation that during all that period it had not suffered from civil war or provincial rebellion anywhere, that public loans, as in the past, had not been wasted in suppressing internecine disorders of any kind, and that the frontier, hitherto so frequently threatened, had been wholly exempt from Indian disturbance. He claimed it was the first time in Argentine history when the people had enjoyed



six consecutive years of peace, during which great public works and long lines of railroads had been constructed. During this period, also, he showed that the Government had taken possession of vast territories, hitherto under savage domination, both in the north and in the south, which had been fully explored, divided into nine territorial governments, which soon would join the nation as new States.

The imports and exports in 1880, when his administration was inaugurated, amounted only to \$103,000,000; during the last year they increased to \$189,000,000, the revenue of the Republic now being \$39,000,000 as against \$20,000,000 in 1880. He showed that the tonnage between entries and sailings is now 3,350,000, against 1,050,000 in 1880, and that the country now had 4,800,000 acres under tillage, against 2,700,000 in 1880. Immigration had increased from 32,000 to 108,000 persons.

He congratulated the city of Buenos Ayres on its wonderful advancement—its parks, its costly monuments, its sewerage, streets, and public-school buildings, and embraced in this review La Plata, so near by, the marvel of South America, only three years old, with a population of 45,000 souls, vast public buildings, granite streets, electric lights, and a made harbor, where the largest ships now float inland, many miles from the shores of the Plata.

He said the assets of the banks in 1884 stood at about \$200,000,000, and that since then they had increased 50 per cent., standing now at \$300,000,000, and since 1880, 2,500 miles of railway had been constructed.

The President stated that the post-office returns show 35,500,000 letters and papers were carried by the mails during the last year, producing a revenue of \$710,000, which was an increase of 15 per cent. over the receipts of two years ago. The telegraphs yielded a revenue of \$271,000, an increase of 20 per cent. within the same period. The country now has 637 post-offices and 154 telegraph offices.

He dwelt at much length on the vast river and harbor improvements in progress of construction, and the structure of new lines of railroads, soon destined to traverse the Andes and touch the Pacific coast. He showed that the net receipts of the Central Northern line railway, constructed and operated by the Government last year, were \$612,903, the gross receipts having reached \$1,523,042; also that the portion of the Andine railway now opened has already earned a net profit of \$478,910. In October, 1880, the Republic had 2,318 kilometers of railway; now it has 6,152, and those which are being worked produced a net profit of \$6,489,704.

It was stated that during his administration \$1,105,222 had been realized by the Government by sale of public lands, the average price being \$2,019 per league of 6,400 acres. The Government has been granting concessions to colonies who would take up tracts of public lands and settle and develop them, but that this system of colonization has recently been suspended, and that the public lands are now all subject to sale or rent to private individuals.

The depression in the trade of foreign markets, he claims, had affected the prices of products here, but at the same time, he contended, the Government had, notwithstanding this fact, reached a healthful equilibrium in the balance of trade, imports declining and exports augmenting.

The returns show:

|               | 1884.        | 1885.        |
|---------------|--------------|--------------|
| Imports ..... | \$94,056,000 | \$95,895,000 |
| Exports ..... | 68,030,000   | 91,191,000   |

There had been an increase of \$3,945,000 in the export of wool, \$2,300,000 in jerked beef, and \$1,600,000 in linseed.

The revenue returns show :

|            |              |
|------------|--------------|
| 1884 ..... | \$37,725,000 |
| 1885 ..... | 39,185,000   |

The appropriations voted were \$43,500,000, but the expenditures had been only \$42,765,000.

The revenue of the first quarter of the current year has reached \$11,650,000, and for the entire year will probably reach \$46,000,000, which will be sufficient for present public needs and to cover the deficit of last year.

The consolidated public debt, on March 31, 1886, was reckoned as follows:

|                |              |
|----------------|--------------|
| Internal ..... | \$47,138,000 |
| Foreign .....  | 73,994,000   |

Since 1880 \$45,500,000 had been expended in public improvements, chiefly in the structure of railroads. The state railways now represent a value reaching \$40,000,000.

Allusion was made to paper money, at a discount, at a present, under the suspension of specie payments, but he claimed the outstanding issue, though large, did not exceed public and business needs. Cheap money, he thought, threatened no evil, as long as immigration increased and the industries of the people were prosperous.

The interests of education were then discussed at length. On this subject the President said:

Education is making rapid strides. The nation and the provinces expend large sums on this branch of administration, the expenditures last year amounting to \$3,516,794. In America, the United States alone surpasses us in this respect. The number of Argentine public schools is 1,741. In addition to these, private schools number 711, showing a total of 2,452 schools, directed by 4,736 professors, and attended by 168,078 pupils. The public schools are directed by professors who have taken out their diplomas in our normal schools. Numerous school buildings are now being completed in the capital, and forty such will soon be inaugurated.

The discussion of education was pursued at much length.

The strength and efficiency of the army and navy were then reviewed, and warmly commended for the part they had played in national progress.

Here the President put aside his manuscript, evidently much exhausted, and suffering great pain from his bruised head, and with a depth of feeling which manifestly touched every heart present, and which will doubtless give him a warm place in the sympathy of all his countrymen closed his message as follows:

I have laid before you a general statement of my six years in office. You can see in it the wish and aim always kept in view by my Government, and judge whether I have kept my word as to peace and administration. I also leave behind me a well-founded respect for the national authority, without which no people can exist, and the absence of which caused so many of our troubles. Thanks to this, the transmission of power will, for the first time, be made in peace to the new President.

I may have made mistakes. The office of Chief Magistrate is no easy one; but all my acts, good or bad, had, I can assure you, solely in view the good of the country.

In descending from this elevated post of great honor, but, also, of decided obligations and great responsibilities, where strife and fatigue are incessant and bitterness abounds, where the slightest carelessness may be a crime, and where one must bear the enmities of private interests without complaint, and receive complacently the poisoned darts of party passion, I do it with a tranquil conscience and serene mind, caressing the idea of retirement which democracies reserve to those who have served them whether well or ill, without hatred or ill-will for any one, even for the unfortunate man who has just attempted to assassinate me, and with a soul filled with

gratitude for the counselors who have aided me in the Government, for you who have indicated to me, by wise and opportune laws, the course which I ought to follow, and for all those of my fellow-citizens who have encouraged me with marks of approbation and sympathy in critical moments, with boundless thanks to the Creator for His visible protection of the Argentine Republic, and earnestly praying that the moral and material conquests achieved in recent years may be preserved and enlarged, I leave you in charge of your high trusts.

The foregoing were the main points presented by the message, all of which are respectfully submitted.

I have, &c.

BAYLESS W. HANNA.

## CORRESPONDENCE WITH THE LEGATION OF THE ARGENTINE REPUBLIC AT WASHINGTON.

No. 2.

*Mr. Quesada to Mr. Bayard.*

[Translation.]

LEGATION OF THE ARGENTINE REPUBLIC,  
*Washington, November 5, 1885.*

I have received instructions from the Argentine Government to send your excellency a printed copy of the extradition law promulgated on the 25th of August last, although one has already been transmitted to the United States minister at Buenos Ayres.

The minister of foreign relations instructs me to state to your excellency that this law does away with the necessity of special conventions, the clauses and provisions of which it is difficult to make uniform; it also establishes a general rule according to which any extradition cases that may arise are to be decided.

It is proper for me to add that all the copies that I have received contain the corrections which are found in Articles IV, XV, and XXXI.

I have the honor to reiterate to your excellency the assurances of my highest consideration.

VICENTE G. QUÉSADA.

[Inclosure.]

### EXTRADITION LAW.

MINISTRY OF FOREIGN RELATIONS,  
*Buenos Ayres, August 25, 1885.*

Whereas; the Senate and Chamber of Deputies of the Argentine nation, in Congress assembled, sanction with the force of law:

#### CHAPTER I.—Concerning extradition cases.

ARTICLE I. The Government of the Argentine Republic may surrender to foreign Governments, on condition of reciprocity, any person who may be pursued or accused, or who may have been convicted by the courts of the demanding power, provided that the crime or offense concerned is one of those enumerated in the present law, and in conformity with the rules thereby established.

ART. II. Extradition shall be granted when the crime committed is one of ordinary character, which according to the laws of the Republic, would render the perpetrator liable to not less than one year's imprisonment.

ART. III. Extradition shall not be granted:

(1) When the person for whose surrender application is made shall have been a native or naturalized Argentine citizen before the commission of the act on which the application for extradition is based.



(2) When the offenses committed shall be of a political character, or connected with political offenses.

(3) When the offenses shall have been committed in the territory of the Republic.

(4) When, although the offenses have been committed outside of the Republic, the perpetrator thereof shall have been prosecuted and tried definitively therein.

(5) When, according to the laws of the demanding power, the penalty or the right to prosecute for the offense on which the demand for extradition is based has become void through the statute of limitation.

ART. IV. When the person for whose extradition application is made shall be a slave who is charged with or has been convicted of an ordinary offense, extradition shall be granted provided that the nation making such application pledge itself to try him as a free man and to consider him always as such.

ART. V. In cases in which, according to the provisions of this law, the Government of the Republic is not to surrender the delinquents whose extradition is asked for, such delinquents shall be tried by the courts of the country, and shall be subject to the penalties established by law for crimes or offenses committed in the territory of the Republic. The final sentence or decision shall be communicated to the demanding Government.

ART. VI. Extradition shall always be granted with the proviso that the person surrendered shall not be prosecuted or punished for an offense distinct from that on which the demand for his extradition shall have been based, unless the offense concerned shall be another rendering him liable to extradition, and unless the Argentine Government shall duly consent thereto after the requirements of Articles 12 and 24 have been complied with. These restrictions shall not be enforced when the accused shall not have returned to the Republic within three months subsequent to his release, whether he shall have remained in the country that demanded his extradition or in another.

ART. VII. When application shall be made for the extradition of a foreigner who is pursued or accused, or who has been convicted in the courts of the Republic of a crime distinct from that on which the demand for his extradition is based, he shall not be surrendered until his trial is over and he has served out his punishment. Nevertheless, the extradition of a foreigner may be temporarily granted for the sole purpose of allowing him to appear before the courts of the demanding country, on condition that he shall be returned when the trial is ended.

ART. VIII. If, after the extradition of a foreigner shall have been obtained by the Argentine Government, such foreigner shall be claimed by another state, on account of another offense, extradition shall not be granted if there is ground therefor, except by consent of the country that shall have surrendered him.

ART. IX. If the extradition of a foreigner shall be asked for on account of offenses committed in a territory not belonging to the demanding power, it shall not be granted, except in those cases in which prosecution for offenses committed outside of the territory is permitted by the Argentine laws.

ART. X. When two or more nations apply for the extradition of the same person, on account of different offenses, the extradition shall be granted to that nation in whose territory the most serious offense shall have been committed, and if the offenses shall be of equal magnitude, it shall be granted to the nation which shall have first made application.

ART. XI. If the person claimed shall not be a citizen of the demanding country, and shall likewise be claimed by the Government of his nation on account of the same offense, it shall be optional with the Argentine Government to surrender him to whichever Government it may think proper, according to the antecedents of the case.

## CHAPTER II.—*Procedure.*

ART. XII. Every demand for extradition shall be made diplomatically, and shall be accompanied by the following documents:

(1) The sentence of condemnation, notified in the form prescribed by the laws of the demanding country, if the person claimed shall already have been convicted, or the warrant of arrest issued by the competent courts, with the exact designation and the date of the commission of the offense in question, if the person is merely charged with committing the same. The originals of these documents or an authentic copy thereof shall be presented.

(2) All data and antecedents necessary to prove the identity of the person whose extradition is demanded.

(3) A copy of the legal provisions applicable, according to the laws of the demanding country, to the offense with which the person is charged.

ART. XIII. When the demand for extradition is received, the minister of foreign relations shall examine whether it is accompanied by the necessary documents, whether the offense for which it is made is included among the cases specified in this law, and whether any of the circumstances enumerated in Article III exist.

ART. XIV. If the result of such examination shall be unfavorable to the granting of the extradition, he shall submit his opinion to the President of the Republic for



the consideration of the cabinet, and if his said opinion shall be approved, he shall transmit it officially to the respective diplomatic minister, with the grounds on which it is based.

ART. XV. If, on the other hand, the minister of foreign relations shall consider that the requirements of Article XII are satisfied, and that the case comes within the provisions of this law, and not within the exceptions provided for in Article III, he shall immediately give notice to the minister of the interior, to the end that suitable measures may be adopted for the arrest of the person whose extradition is demanded, provided that he shall not already have been arrested, according to the provisions of Articles XXV and XXVII.

ART. XVI. The person arrested shall be placed at the disposal of the judge of the district in which his arrest shall have taken place, together with the accompanying antecedents, within the space of thirty days; at the expiration of which, without this having been done, the person arrested shall be released by the aforesaid judge.

ART. XVII. Within twenty-four hours from the receipt of the said documents the judge shall receive the statement of the presumptive criminal, with a view to obtaining proof of the identity of the person, who may be permitted to employ counsel.

ART. XVIII. It shall not be permissible to call into question the intrinsic validity of the documents produced by the demanding Government, but the investigation shall be confined to the following points:

- (1) Identity of the person.
- (2) Examination of the extrinsic forms of the documents presented.
- (3) Whether the crime is included among the cases enumerated in this law.
- (4) Whether the penalty enforced belongs to the category of those penalties which are properly applicable to the crime or offense in question, according to the laws of the demanding country.
- (5) Whether the case is included within the provisions of Article III.
- (6) Whether the sentence or the warrant of arrest emanates from the competent courts of the demanding country.

ART. XIX. The person whose surrender is demanded, or his counsel, shall have six days to present his defense, which the district attorney shall be allowed to hold for six days for examination.

ART. XX. If there shall be any necessity to prove any facts, the case shall be received for evidence, and with regard to this, and to its terms, the provisions of national procedure shall be observed.

ART. XXI. When the evidence has been laid before him, the judge shall decide within ten days, and declare whether there is or is not ground for granting the extradition.

ART. XXII. If the decision of the court shall be unfavorable to the granting of the extradition, owing to any defect in the documents which must accompany the demand, such decision shall be communicated by the minister of foreign relations to the representative of the demanding country, to the end that the defect in question may be remedied.

The person arrested shall be released if these documents shall not arrive within one month, reckoning from the time of the communication of the diplomatic notice, if the country concerned be one bordering on the Republic, and within three months in the case of all other countries.

ART. XXIII. If the decision of the court shall authorize or refuse extradition for any of the causes specified in paragraphs 3, 4, 5, and 6 of Article XVIII, an appeal to the supreme court may be taken; which court shall finally decide the case, it having previously been submitted to the attorney-general of the nation.

The original process shall be transmitted to the ministry of foreign relations through the ministry of justice, and an authenticated copy of the decision shall be transmitted to the demanding minister, together with the decree authorizing the extradition, if it is granted.

ART. XXIV. If, on account of a crime or offense committed previously to the act of the extradition, but discovered subsequently thereto, authorization shall be asked to prosecute the person already surrendered, the demand, which shall be accompanied by the papers relative to the process, in which shall be contained the observations of the person accused, or a declaration signed by him that he has no observations to make, shall be submitted to the district judge before whom the demand for his extradition shall have come, and from his decision there shall be no appeal.

### CHAPTER III.—*Various provisions.*

ART. XXV. In case of urgency, the courts of the Republic may order the preliminary arrest of a foreigner in compliance with the direct request of the judicial authorities of a country having an extradition treaty with the Republic, provided that the existence of a sentence or of a warrant of arrest be invoked, and provided that the nature of the crime for which the person in question has been sentenced or is pursued be clearly determined.

The demand may be made by mail or telegraph, and, at the same time, notice shall be given, diplomatically, to the minister of foreign relations. The courts that have caused the arrest to be made shall immediately give notice thereof to the minister of foreign relations, through the minister of justice.

ART. XXVI. A foreigner arrested in virtue of the provisions of the foregoing article shall be immediately released if it shall be so ordered by the Executive; or if, within the space of one month, when the country concerned is one bordering on the Republic, and of two months in the case of all other countries, the Argentine Government shall not receive, in due form, the diplomatic demand for extradition.

ART. XXVII. The preliminary arrest of a foreigner may likewise be ordered by the Executive, at the request of a diplomatic minister, pending the arrival of the documents necessary to be presented with the demand for extradition, and the provisions of the two foregoing articles shall be applicable to these cases.

ART. XXVIII. The Argentine Government may authorize the transit through the territory of the Republic of a surrendered person who is not an Argentine citizen, without any requirement save the diplomatic presentation of the sentence whereby he has been condemned or of the warrant issued for his arrest, provided that the person in question be not accused of political offenses or offenses therewith connected, and that it be for an offense rendering him liable to extradition according to this law.

ART. XXIX. All papers and other articles that may have been taken from the presumptive criminal, and that may serve to throw light upon the offense with which he is charged, shall be turned over to the Government applying for his extradition, if it shall so request, on condition that that Government shall return the same when the case shall be concluded, if there shall be third parties claiming them.

ART. XXX. Letters rogatory, issued by a competent foreign magistrate in a criminal, not a political, case, shall be presented diplomatically, and shall be transmitted to the competent judicial authorities.

ART. XXXI. Citations in a criminal, not a political, case, of witnesses domiciled or residing in the Republic, shall not be received, and notice thereof shall not be given, save on condition that such witnesses shall not be prosecuted or arrested on account of previous acts or convictions, or as accomplices in the offense then brought to trial, it being understood that the appearance of the witnesses is purely voluntary on their part, and that the expenses thereof shall be defrayed by the demanding Government.

ART. XXXII. The procedure established by the present law shall be applicable also to cases governed by extradition treaties in all points not at variance with their stipulations.

ART. XXXIII. The Executive shall give notice, at their expiration, of the desire of the Government of the Republic for the cessation of the effects of all extradition treaties that do not conform to the provisions of this law.

ART. XXXIV. Let it be communicated to the Executive.

Done in the hall of sessions of the Argentine Congress, at Buenos Ayres, on the twentieth day of August, one thousand eight hundred and eighty-five.

FRANCISCO B. MADERO.

ADOLFO J. LABOUGLE,  
*Secretary of the Senate.*

RAFAEL RUIZ DE LOS LLANOS.

JUAN OVANDO,  
*Secretary ad interim of the Chamber of Deputies.*

Therefore: Let it be obeyed, communicated, published, and inserted in the R. N.

ROCA.

FRANCISCO J. ORTIZ.

## AUSTRIA-HUNGARY.

No. 3.

*Mr. Lee to Mr. Bayard.*

No. 192.]

LEGATION OF THE UNITED STATES.,  
*Vienna, July 1, 1886. (Received July 17.)*

SIR: I have the honor to request special instructions on the inclosed petition of Friedrich de Bourry to this legation for a passport as a native citizen of the United States.

In addition to the facts stated in the petition, \* \* \* I may add as a part of the history of the case, that Mrs. de Bourry called upon me in

her son's name, to obtain a United States passport. I did not think then that the evidence was such as to entitle her son to a passport, and so told her; but told her to embody the facts in an affidavit and that I would forward it to the Department of State. \* \* \*

There are some matters in the affidavit which vary somewhat from my recollection of my interview with Mrs. de Bourry—viz, she told me positively, in answer to cross-examination, that her husband, Colonel de Bourry, had never been naturalized, or given any notice of an intention to become naturalized, and that her son had steady employment on the railroad, and was afraid of being forced into the army.

The fear of his being obliged to serve in the army seemed to be her great anxiety at the time, and to have created a great urgency for a passport.

Admitting as true everything stated in the inclosed affidavits, the case presents these difficulties: \* \* \*

Section 1992, United States Revised Statutes, 1878, says:

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

The latter portion of section 131 of "Personal Instructions" reads: "That the citizenship of the father descends to the children born to him when abroad, is a generally acknowledged principle of international law;" which raises a presumption that the said de Bourry, being born of alien parents, citizens of Austria-Hungary, is not included in section 1992 of the Revised Statutes, unless to the extent implied in Dr. Wharton's report to the Secretary of State, dated May 4, 1885, in his comment upon section 173 of the Consular Regulations, in which he says:

The correct rule I apprehend to be that the children born of parents domiciled in the United States partake of their father's domicile, and that children born abroad of citizens of the United States partake of their father's citizenship. The possession of these rights continues until the infant arrives at the age of twenty-one, at which age he is entitled to make election as to what nationality and what domicile he will accept, which election must be regarded as final.

If so, it would then only become necessary to see if an election has been made.

\* \* \* \* \*

It has seemed to me that Mr. de Bourry's omission on attaining the age of twenty-one to make any effort to become identified as a citizen of the United States, his long and continuous residence in Austria-Hungary, the home of his parents, together with the seeking and obtaining employment of a permanent nature, constitute acts of election which may be considered final.

\* \* \* \* \*

Admitting, however, that he would be entitled to a passport if the allegations in the petition were all proven to be true, it seems to me in such a case the most positive evidence should be adduced.

In that respect I consider the petition deficient, because, while the affidavit of the mother is positive enough, it is an unsafe precedent to accept as conclusive the uncorroborated testimony of an interested witness as to the only point which could give a right to citizenship, viz, the accidental birth in New York.

The fact of baptism in New York of the child of a traveler, thirteen days after its alleged birth, hardly raises the presumption that the child was born in that city, and if it did, there exists no evidence proving the identity of the said Friedrich de Bourry with the person named in the



certificate of baptism, which is now in his possession, and no proof whatever of the genuineness of said certificate.

For these reasons I declined to issue a passport in this case, without instructions to do so.

I have, &c.,

JAMES FENNER LEE.

To the Hon. JAMES FENNER LEE,

*United States Chargé d'Affaires ad interim, Vienna, Austria:*

Your petitioner, Friedrich de Bourry, a resident of the city of Vienna, Empire of Austria, respectfully represents that he was born in the city of New York, State of New York, United States of America, on the 4th day of December, 1862, as the fruit of the intermarriage between his father, Gotthilf de Bourry, and his mother, Angelica de Bourry, née Dragas, and that your petitioner was baptized by the Rev. Father Francis Klaholy on the 17th day of December, A. D. 1862, at said city of New York, as appears from the register of baptism kept at the church of Saint Alphons, New York. And your petitioner further represents that he remained in the said city of New York until he was five years of age, and then came to Europe with his mother; and that his father joined them in the city of Vienna in the year 1869, where he died in the year 1880, and that this petitioner has resided in the city of Vienna ever since the year 1869.

And your petitioner further represents that he is informed and believes that, at the time of the birth of your petitioner in the city of New York aforesaid, his father, Gotthilf de Bourry, was in the military service of the United States of America as a captain on the staff of General Blenker; and your petitioner further states, that his father subsequently served in the Army of the Union as colonel of the Sixty-fourth Regiment of Infantry of New York State Volunteers, to which position he was appointed by virtue of a commission issued by Horatio Seymour, then governor of the State of New York, under date of June 13, A. D. 1864, which commission is now in possession of your petitioner; but this petitioner is not informed whether or not his father, after being honorably discharged from the service of the United States, ever took the steps or filed the petition required under the law in order to obtain the rights and privileges of American citizenship.

And your petitioner further represents, that he has never in any manner forfeited the rights acquired by his birth in the United States of America, and has at no time assumed the duties or claimed the privileges of citizenship of any other country, and has never exercised the rights and privileges of a citizen or subject of any other country, and has not sworn allegiance to any king or potentate, but has always claimed to be and has regarded himself as an American citizen, and that he has always intended to return to the United States of America as soon as his means permitted it, and that he now intends to return to the United States of America as soon as possible, and intends to remain and reside there permanently.

Wherefore your petitioner respectfully prays that a passport may be issued to him by the United States legation at Vienna, recognizing his rights and his status as a native-born American citizen, as your petitioner will ever pray.

FRED. DE BOURRY.

UNITED STATES CONSULATE-GENERAL AT VIENNA, AUSTRIA, 83.:

Friedrich de Bourry, the above-named petitioner, being duly sworn, upon his oath deposeeth and saith that he has signed the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

FRED. DE BOURRY.

Sworn to and subscribed before me this 19th day of July, A. D. 1886.

[SEAL.]

EDMUND JÜSSEN,  
*United States Consul-General.*

UNITED STATES CONSULATE-GENERAL AT VIENNA, AUSTRIA:

Angelica de Bourry, being duly sworn, upon her oath saith that she is the mother of Friedrich de Bourry, whose petition is hereunto annexed, and that she gave birth to said Friedrich de Bourry in the city of New York, State of New York, United States of America, on the 4th day of December, 1862, and that she has heard read the petition of her said son, Friedrich de Bourry, and knows the contents thereof, and that the same is true in substance and in fact.

ANGELICA DE BOURRY.

Sworn to and subscribed before me this 19th day of June, A. D. 1886.

[SEAL.]

EDMUND JÜSSEN,  
*United States Consul-General.*



*Mr. Lee to Mr. Bayard.*

No. 193.]

LEGATION OF THE UNITED STATES,  
Vienna, July 1, 1886. (Received July 17.)

SIR: I have the honor to forward for the action of the Department of State a petition for passport addressed to this legation by Mr. Albert Landau.

Mr. Landau applied to me for a passport some time since, claiming to be a naturalized citizen of the United States, formerly a subject of Austria-Hungary.

When asked to produce his certificate of naturalization, he gave me the account of its loss.

I told him he must obtain a certified copy, which he endeavored to do, but subsequently told me he had written to a friend in Philadelphia, where he claims to have been naturalized, but that his friends were unable to find any record.

He left the United States with a passport issued by the Department of State which was lost at the same time as his certificate of naturalization.

Having obtained, however, from Mr. Carroll Spence a new passport, he continued to reside in the Levant, made money, and returned about eighteen years ago to his native land, to enjoy it.

He lives in Vienna, where he owns an independent property and has raised a family of six children.

He belongs to that class of naturalized citizens who only remain in the United States long enough to become naturalized, and, avoiding all duties to the land of their adoption, seek to remain in their original home avoiding also all responsibility to its Government.

The object of the present effort to obtain a passport is, I have reason to believe, to secure his three sons from the necessity of performing military duty.

The Department may have some record of the issuing of his original passport in 1854, with the date of the certificate of naturalization and the title of the court by which it was issued; if so and the Department considers it a proper case for renewal, the reference might be sent to me in order that Mr. Landau may obtain a certified copy.

I have, &c.,

JAMES FENNER LEE.

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To the Hon. JAMES FENNER LEE,

*United States Chargé d'Affaires ad interim, Vienna, Austria:*

Your petitioner, Albert Landau, residing in the city of Vienna, Empire of Austria, respectfully represents that he is a naturalized American citizen, and that he obtained his certificate of naturalization in one of the courts of record of the city of Philadelphia, State of Pennsylvania, during the year 1854, in accordance with the act of Congress in such case made and provided, and after he, your petitioner, had resided more than five years uninterruptedly in the United States.

That during the said year, 1854, a passport was duly issued to your petitioner, by the Department of State at Washington, your petitioner presenting then and there the proofs of his citizenship, which fact must now appear of record at said Department of State.

That during the same year your petitioner returned to Europe, and that while in the Crimea during the year 1855 his said passport, as well as other papers and property of your petitioner, were stolen from him, together with his said certificate of naturalization.

That subsequently, to wit, on the 18th day of October, A. D. 1855, another passport was issued to your petitioner by the then minister resident at Constantinople, which passport is hereunto annexed and marked Exhibit A, and the petitioner herewith begs leave to make the same a part of this petition.

That in lieu of this last-named passport a third passport was issued to this petitioner during the year 1863 by the United States consul-general at Alexandria, Egypt, and the passport hereunto annexed was canceled, as will appear from an examination of the same.

And your petitioner further represents that he has lost the said third passport issued to him by the said United States consul-general at Alexandria, Egypt, and that after a diligent search he is unable to find and can therefore not produce the same.

And your petitioner further avers and charges the fact and the truth to be that he has ever since said naturalization regarded and conducted himself as an American citizen, that he has not forfeited his American citizenship in any manner, and has not assumed the duties or claimed the privileges of a subject or citizen of any other country whatever, and that he claims, although temporarily residing in a foreign country, the rights and privileges of an American citizen, and believes himself to be entitled to recognition and protection as such citizen by the Government of the United States.

Your petitioner therefore prays that a passport may be issued to him as a citizen of the United States, in accordance with the provisions of law, on due proof of the identity of your petitioner. As your petitioner will ever pray.

ALBERT LANDAU.

UNITED STATES CONSULATE-GENERAL AT VIENNA, AUSTRIA, ss.

Albert Landau, the above-named petitioner, being duly sworn, upon his oath saith that he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge in substance and in fact.

ALBERT LANDAU.

Sworn to and subscribed before me this 25th day of June, A. D. 1886.

[SEAL.]

EDMUND JÜSSEN,  
United States Consul-General.

## No. 5.

*Mr. Bayard to Mr. Lee.*

No. 35.]

DEPARTMENT OF STATE,  
Washington, July 24, 1886.

SIR: Your dispatch, No. 193, of the 1st instant, in reference to the application of Albert Landau for a passport, has been received.

In the attached memorial Mr. Landau alleges that he was duly naturalized in Philadelphia during the year 1854, and that subsequently in the same year, having obtained a passport from this Department, he returned to Europe. During the following year, it is alleged, he lost both his record of naturalization and his passport, but obtained another passport from the legation at Constantinople. This was subsequently canceled when a new passport was given him by the consul-general at Alexandria, Egypt, in 1863; the latter passport he is unable to produce. He has not, apparently, visited the United States since 1854. He now desires a new passport to be issued to him by your legation.

It is not necessary to consider whether naturalization can be proved by parole, in case of destruction of the record, for in this case there is no adequate proof that the record of naturalization ever existed. But even supposing that Mr. Landau's naturalization were duly proved, I hold that he is not now entitled to a passport. He was naturalized, so he claims, in 1854, at Philadelphia. He was in the Levant in 1857, and there amassed a fortune, with which, about 1863, he retired to Vienna. During the whole of this period, according to his own statement, he was absent from the United States. This absence, therefore, commencing almost at the instant of his naturalization, continued over thirty-

four years, during which time he performed none of the duties, nor made any of the contributions, of a citizen to the support or welfare of the country of his adoption, although during a portion of that time all the resources of that country were severely drawn upon. Had he paid an income tax, as by law he should have done if he retained his citizenship during the period when that tax was imposed, it would be easy for him to establish such payment. No attempt has been made to do so, and we must therefore presume that no such tax was paid. Had he paid taxes to the State of Pennsylvania, in which it is to be inferred from his statements he claims to have been domiciled, this also could be easily proved; and that no such proof is offered justifies the presumption that none of such taxes were paid. He keeps exempt from all taxation in this country the wealth he has accumulated, under the protection of a passport and alleged citizenship of this Government, and he thus stands aloof, demanding the protection of allegiance while abandoning all its duties, and, from a foreign land, applies to this Government for a passport which, without his performing any of the duties of a citizen of the United States, would relieve him, so far as the interposition of the United States could do so, from the duties of a subject of Austria. This is not a case in which the United States can or ought to interpose. If Mr. Landau had ever any title to be considered a citizen of the United States, he has abandoned it. Citizenship of the United States, it is my duty to say, is a high privilege, and, when granted to an alien, confers great prerogatives, whose maintenance, when they are honestly procured and faithfully exercised, the United States will exert its fullest powers to vindicate. These prerogatives are granted to protect, not merely men of wealth, such as the present memorialist, but the humblest and most friendless immigrant who seeks shelter and a home on these shores. But the enjoyment of the prerogatives is conditioned on the performance of the correlative duties of loyal service, of love to the country of adoption, of support of the country when she needs support, and of payment of the just taxes that country imposes upon all its citizens. When the performance of that duty ceases, then cease the prerogatives of the citizenship on which they are conditioned. As far as I can judge from what is before me in the present case, these duties of citizenship have been steadily evaded by non-residence and have never been performed by the memorialist. Whatever may have once been his title to citizenship, it was long since abandoned by him. His application for a passport should, therefore, be refused.

I am, sir, &c.,

T. F. BAYARD.

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No. 6.

*Mr. Bayard to Mr. Lee.*

No. 36.]

DEPARTMENT OF STATE,  
Washington, July 24, 1886.

SIR: Your No. 192, of the 1st instant, in reference to Mr. Friedrich de Bourry's claim for a passport, is now before me, and I take the opportunity to express my satisfaction with the clearness of its statements, and the accuracy of the distinctions it makes.

Friedrich de Bourry, according to the allegations in his memorial, was born in the city of New York on December 4, 1862, of Austrian



parents, then temporarily resident in that city, and there remained with them until he was five years of age, when he accompanied his mother to Europe. In 1869 he and his mother, residing in Vienna, were joined in that city by his father, who died in 1880. Under the Austrian Government Friedrich de Bourry, the memorialist, has remained until this day, employed in the Austrian railway service. It is not claimed that his father was ever naturalized, or made the requisite declaration of his intention to become a citizen of the United States, or in any way signified his intention formally to abjure his Austrian allegiance. Nor is it pretended that when, on December 5, 1883, the present memorialist arrived at full age, he took any steps to make or record his election of citizenship in the United States. For several years before that date he was old enough, with his mother's permission, which it is plain from her affidavit she was ready to give, to come to the country of his birth if it had been the country of his intended citizenship. He alleges no effort of this kind, nor any act or event indicating his election of United States citizenship when he arrived at full age.

Under these circumstances it is not necessary for me to consider the question whether Friedrich de Bourry was, at the time of his birth, a citizen of the United States under the naturalization statutes and the fourteenth amendment of the Constitution of the United States. It is enough to say that he has exhibited no such proof of an election, on arriving at full age, of United States citizenship as now entitles him to a passport. An election in a case of dual or doubtful allegiance, which is the utmost which can be claimed in the present case, must be made on attaining majority, or shortly afterwards, and must be signified by acts plainly expressive of intention, such as immediate preparations to return to the elected country.

In the present case there is no evidence that an election to become a citizen of the United States was ever made or intended, but on the contrary all the facts create the presumption that an Austrian domicile was chosen.

The passport must therefore be refused.

I am, sir, &c.,

T. F. BAYARD.

## BELGIUM.

No. 7.

*Mr. Tree to Mr. Bayard.*

No. 20.]

LEGATION OF THE UNITED STATES,  
Brussels, November 24, 1885. (Received December 7.)

SIR: Mr. Edward van Eetvelde, administrator-general of the department of foreign affairs of the Independent Free State of the Congo, presented me to-day with a few specimens of postal cards and international letter stamps, which his Government is about to issue, and which I have the honor to inclose herewith.\*

He informed me at the same time that the postal service of the Independent Free State of the Congo would be in operation by the 1st of January next. He also said that his Government intended to immedi-

\* Originals sent to Postmaster-General.



ately establish a registry of births and deaths at four points in the country, namely, at Banana, Vivi, Leopoldville, and Stanley Pool, and that a decree to that effect had been already signed by Leopold, the Sovereign of that State.

I have, &c.,

LAMBERT TREE

No. 8.

*Mr. Bayard to Mr. Tree.*

No. 17.]

DEPARTMENT OF STATE,  
Washington, December 19, 1885.

SIR: Your dispatch, No. 20, of the 24th ultimo, inclosing specimens of postal cards and international letter stamps adopted by the Independent Free State of the Congo, and informing me that you had been officially notified that the postal service of that State would be in operation on the 1st of January next, has been received.

In reply I have to inform you that I have communicated the contents of your dispatch to the Postmaster-General.

I am, sir, &c.,

T. F. BAYARD.

No. 9.

*Mr. Tree to Mr. Bayard.*

No. 31.]

LEGATION OF THE UNITED STATES,  
Brussels, December 24, 1885. (Received January 9.)

SIR: I have just heard that an English syndicate, one of the members of which is said to be Henry M. Stanley, the explorer, has to-day entered into an agreement with the Government of the Congo Free State for the construction of a railroad around the Falls of the Congo; that under the terms of this agreement the syndicate or company has a concession of ten thousand acres per mile for each mile of road and one-half of the revenues of the State until such time as the railroad shall pay 6 per cent. on its capital stock; that the capital guaranteed by the syndicate for the purpose of carrying out the enterprise of building the road is one million of pounds sterling.

I have reason to believe that the information is reliable.

Stanley has been here for several days, and I learn left for England to-day.

I have also heard some hints about a commercial company, of which the parties concerned in this railroad enterprise are the promoters and apparently in connection with the railroad, which is to have a capital of three millions of pounds sterling, including the million required for the construction of the railroad. But the information I have learned on this point is so indefinite that until I hear something more about it I will content myself with simply mentioning the matter.

I have, &c.,

LAMBERT TREE.

No. 10.

*Mr. Tree to Mr. Bayard.*

No. 48.]

LEGATION OF THE UNITED STATES,  
*Brussels, February 5, 1886. (Received February 23.)*

SIR: I have the honor to inform you that I have transmitted to you by this day's mail, under separate cover, as printed matter, the first three numbers of the Bulletin Officiel of the Independent State of the Congo.

The first number of the first year is devoted entirely to the general act of the Conference of Berlin.

The first number of the second year publishes the royal decree, organizing a judicial system for the State. It institutes local tribunals "*de première instance*" in localities to be determined by the sovereign, and a court of appeal at Boma.

Each tribunal is composed of one judge, a clerk, and a sheriff's officer. The sessions are public, and the judgments of the court are rendered publicly.

Offenses committed by natives to the prejudice of non-natives are punished conformably to the provisions of the code established by the royal decree; offenses committed by natives between themselves are adjudged according to the local customs of the country.

Those condemned to death suffer by hanging.

Those condemned to penal servitude are employed at the interior stations and on the public works. Fines are provided for in certain cases, ranging from not less than 1 franc to not more than 5,000 francs. Fines may be paid in silver, or its equivalent in kind.

Homicide committed with premeditation is punishable with death.

Robbery attended with violence is punished very severely—from five to twenty years' penal servitude.

The second number of the first year published a decree organizing the Government of the Congo into three departments, to wit:

(1) The department of foreign affairs, which embraces, besides matters ordinarily incident to that department, also justice, commerce, and postal and telegraphic affairs.

(2) The department of finances, which embraces imposts, the regulation of lands, with reference to sales and acquiring of private title, recording of deeds, &c., the general accounts of the State, the public debt, and financial matters generally.

(3) The department of the interior, which embraces public instruction, police, roads, health, transport service by land and water, public works, industries, and agriculture.

The last-named bulletin also publishes an ordinance of the State requiring all non-natives who are in the actual occupancy of lands situated on territory of the State, to make an official declaration indicating these lands, and submitting to the examination and approval of the Government the contracts and titles by virtue of which they occupy them.

From and after the publication of this ordinance no contract or agreement with natives for the occupation of, or title to, land will be recognized by the Government or protected by it, unless done through the intervention of a public officer charged by the State with this duty, and in accordance with the methods prescribed by the State.

It is declared that no right exists to occupy vacant lands, nor shall natives be dispossessed of lands which they occupy. Vacant lands are considered as belonging to the State. The same number also publishes

a decree organizing the postal service. From the 1st of January last, post-offices are established at Boma, Banana, and Vivi.

Another decree in the same number organizes an "*État Civil*," for the legal authentication of the births and deaths which take place among the population of European origin in the Congo.

I simply call your attention to the leading features of these decrees. There is much detail in each of them which I will not undertake to give.

I have, &c.,

LAMBERT TREE.

[Inclosure in No. 48.—Official Bulletin of the Independent State of the Congo.—First year, No. 1.—Extract.—Translation.]

The Belgian Legislative Chambers, by a resolution adopted in the Chamber of Representatives on the 25th of April, 1885, and in the Senate on the 30th of April, 1885, authorized His Majesty Leopold II, King of the Belgians, to become the head of another state, in conformity with article 62 of the Belgian constitution: "His Majesty, Leopold II, King of the Belgians, is authorized to be the head of the state founded in Africa by the International Association of the Congo. The union between Belgium and the new state shall be exclusively personal."

On the 1st of August, 1885, and at subsequent dates, His Majesty, Leopold II, King of the Belgians, notified the Powers that the possessions of the International Association of the Congo formed henceforth the Independent State of the Congo; that His Majesty had, with the consent of the association, assumed the title of Sovereign of the Independent State of the Congo, and that the union between Belgium and this state was exclusively personal.

On the same dates, the Independent State of the Congo declared itself perpetually neutral, upon the bases set forth in Chapter III of the general act of the Berlin Conference.

The Sovereign-King received in due succession, in response to the notification of his accession as Sovereign of the Independent State of the Congo, letters:

On the 22d of August, 1885, from Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India.

On the 23d of August, 1885, from His Majesty the King of the Netherlands, Grand Duke of Luxembourg.

On the 24th of August, 1885, from His Majesty the Emperor of Germany, King of Prussia.

On the 26th of August, 1885, from His Excellency the President of the French Republic.

On the 26th of August, 1885, from His Majesty, the King of Italy.

On the 14th of September, 1885, from His Excellency the President of the Swiss Confederation.

On the 15th of September, 1885, from His Majesty the King of Sweden and Norway.

On the 16th of September, 1885, from His Majesty the King of Denmark.

On the 23d of September, 1885, from His Majesty the Emperor of all the Russias.

On the 27th of September, 1885, from His Majesty the King of Portugal and of the Algarves.

On the 3d of October, 1885, from His Majesty the Emperor of Austria, King of Bohemia, and Apostolic King of Hungary.

On the 26th of October, 1885, from the President of the United States.

On the 26th of October, 1885, from His Holiness Pope Leo XIII.

On the 3d of November, 1885, from His Majesty the King of Roumania.

On the 10th of November, 1885, from His Majesty the King of Spain.

On the 26th of November, 1885, from His Excellency the President of the United States of Mexico.

[Official Bulletin of the Independent State of the Congo. First year, No. 2.—Extract.—Translation.]

#### ORGANIZATION OF THE GOVERNMENT.

Nominations by decree of the Sovereign King: Administrator-General of the Department of Foreign Affairs, Mr. E. van Eetvelde; Administrator-General of the De-

partment of Finance, Mr. H. Van Neuss; Administrator-General of the Department of the Interior, Mr. M. Strauch.

Leopold II, King of the Belgians, Sovereign of the Independent State of the Congo.

To all to whom these presents shall come, greeting :

Whereas it is necessary to organize the central Government of the Independent State of the Congo,

On the proposition of our council of administrators-general, we have decreed and do hereby decree :

#### ARTICLE 1.

The central Government comprises three departments, namely : The Department of Foreign Affairs, comprising that of Justice ; the Department of Finance ; the Department of the Interior.

#### ARTICLE 2.

Each department is directed by an administrator-general appointed by the Sovereign-King.

#### ARTICLE 3.

The administrators-general, in council, deliberate on all measures which it may be useful to inaugurate in the interest of the state ; they submit these measures to the approbation of the Sovereign-King.

#### ARTICLE 4.

The administrators-general are charged, each as regards the affairs of his own department, with the execution of the measures decreed by the Sovereign-King.

#### ARTICLE 5.

The functions of each department are defined as follows :

##### DEPARTMENT OF FOREIGN AFFAIRS, COMPRISING THAT OF JUSTICE.

(A) *Foreign Affairs*.—Relations with foreign countries ; treaties and other international acts ; diplomatic and consular services ; extraditions ; civil status, successions, &c., of foreigners.

(B) *Commerce and posts*.—Internal and foreign commerce ; commercial navigation ; ports and harbors ; commercial associations ; immigration ; affairs connected with the posts and telegraphs.

(C) *Justice*.—Organization of the judiciary ; civil and commercial legislation ; penal legislation ; prisons ; charity ; worship ; official bulletin.

##### DEPARTMENT OF FINANCE.

(A) *Imposts*.—Levy and collection of impostos of every kind.

(B) *Regulations respecting real property*.—Real estate occupied by natives and by foreigners ; acquirement of real estate by private persons ; registration of real estate ; land register ; state domain.

(C) *General accounts and treasury*.—General accounts of the receipts and expenses of the state ; general budget of the state ; public debt ; treasury service.

(D) *Monetary system*.—Money and questions relating to money.

##### DEPARTMENT OF THE INTERIOR.

(A) Administrative division of the territory ; administration of the provinces and communes ; public instruction ; scientific collections ; public health ; roads ; police.



(B) Means of communication; land and water carriage; construction, maintenance, and furniture of public buildings.

(C) National forces; artillery material; arms; munitions; purchase of goods for exchange; industry and agriculture.

Given at Laeken October 30, 1885.

LEOPOLD.

By the Sovereign King.  
The administrators-general,

EDM. VAN EETVELDE.  
HUB. VAN NEUSS.  
STRAUCH.

#### DEPARTMENT OF FINANCE.

#### *Regulations respecting realty.*

#### Ordinance of the administrator-general of the Congo.

A decree of the sovereign will shortly summon all foreigners now possessing or occupying, under whatever title, lands lying in the territory of the Independent State of the Congo to make an official declaration describing these lands, and to submit to the examination and approbation of the Government the contracts and titles by virtue of which they occupy them.

The decree is intended to assure, under the forms to be prescribed, the recognition of acquired rights, and to permit the regular establishment, in the near future, of the landed property in the said State.

Meanwhile, in order to avoid conflict and abuses, the administrator-general, authorized for that purpose by the sovereign, enacts the following provisions:

#### ARTICLE 1.

From the date of publication of the present proclamation, no contract nor agreement made with natives for the occupation, under any title whatever, of portions of the territory will be recognized by the Government, nor protected by it, unless the contract or agreement is made through the intermediation of the public officer commissioned by the administrator-general, and in accordance with the regulations which the latter shall prescribe in each particular case.

#### ARTICLE 2.

No one has the right to occupy without title vacant lands nor to dispossess the natives of the lands which they occupy; vacant lands are to be considered as belonging to the State.

FR. DE WINTON.

Vivi, July 1, 1885.

Leopold II, King of the Belgians, Sovereign of the Independent State of the Congo.

To all to whom these presents shall come, greeting:

Whereas there is ground for taking measures for the recognition of the private rights which foreigners have acquired prior to the publication of the present decree relative to lands lying in the territory of the Independent State of the Congo, upon the proposal of our council of administrators-general, we have decreed and do hereby decree:

#### ARTICLE 1.

Foreigners who have rights to be established to lands lying within the Independent State of the Congo can effect the proof and registration of these rights by presenting a petition for registration in the form prescribed by the provisions hereinafter set forth.

This petition shall be presented, in duplicate, before the 1st of April, 1886, to the public officer who shall be charged with the duties of registrar of titles to real estate.

Our administrator-general of the Congo shall have the power to authorize the receipt, subsequently to that date, of petitions for registration which could not, owing to exceptional reasons, be presented within the term prescribed.

## ARTICLE 2.

A separate petition shall be presented for each distinct parcel of ground.

Distinct parcels shall be considered all those which do not directly adjoin other parcels of the same petitioner, as well as all those portions of ground which are separated from another portion by a creek or water-course, or by a permanent public road or path.

## ARTICLE 3.

The petition for registration shall express the name, surnames, profession, nationality, and domicile of the petitioner.

If the latter requests the registration in the name of another person, whose attorney he is, he shall further set forth the name, surnames, profession, nationality, and domicile of this person.

## ARTICLE 4.

The petition shall set forth, as precisely as possible, the situation of the parcel of ground; it shall describe the boundary lines, mentioning the adjacent lands; it shall recite the approximate area of the parcel, the buildings erected on it, as well as its present use, or the intended use of the ground for commercial, agricultural, or other purposes yet to be determined.

## ARTICLE 5.

The petitioner shall set forth in his petition the rights he possesses, and the titles he has to establish. If these rights are proved by a contract in writing, the original of this contract shall be produced, and a copy certified as exact by the petitioner shall be annexed to the petition for registration.

## ARTICLE 6.

If the occupation or the enjoyment of the land is incumbered for the benefit of natives or for the benefit of foreigners, by rents, fines, servitudes, conditions or obligations of any kind whatsoever, detailed description of the same shall be made in the petition.

## ARTICLE 7.

The registrar of titles to real estate shall give a receipt for the petitions for registration which shall be presented to him; he shall return to the petitioner, having stamped them with a *ne varietur*, the original contracts of which profert has been made in conformity with article 5.

## ARTICLE 8.

Proof of the petitions for registration shall be made in such manner as our administrator-general of the Congo shall prescribe.

For those lands to which the rights of foreigners shall have been duly established, the registrar of titles to real estate shall deliver to the parties entitled certificates of registration, which shall constitute legal titles of occupancy until the system of laws respecting landed property in the Independent State of the Congo shall have been finally established.

A fixed price of 25 francs shall be collected on the delivery of each certificate of registration.

## ARTICLE 9.

An official survey of the lands, for which the petitions for registration have been presented, may be made if our administrator-general of the Congo shall consider it necessary or useful.

This survey may be made either before or after the delivery of the certificate of registration.

Before the proper officers shall proceed to the survey, the interested parties shall be required to mark out, either by means of posts, boundary stones, ditches or fences, or in some other self-evident manner, those portions of the boundary line of each piece of ground which are not fixed by natural limits.

The expenses of the survey shall be borne by the interested parties, and shall be paid according to a schedule to be established by our administrator-general of the Congo.

## ARTICLE 10.

Our administrator-general of the department of finance is charged with the execution of the present decree.

Given at Ostend, August 21, 1885.

LEOPOLD.

By the Sovereign King.

The administrator-general of the department of finance,

HUB. VAN NEUSS.

On the 17th of September, 1885, the Independent State of the Congo gave notice of its adhesion to the Universal Postal Convention concluded at Paris June 1, 1878, this adhesion to take effect from January 1, 1886.

By decree of the administrator-general for foreign affairs, dated 18th September, 1885, post-offices were established on and after January 1, 1886, at Banana, Boma, and Vivi.

## RATES OF POSTAGE.

| <i>Domestic.</i>                                                                                                                      |  | Centimes. |
|---------------------------------------------------------------------------------------------------------------------------------------|--|-----------|
| Single letter, per 15 grammes .....                                                                                                   |  | 25        |
| Postal card .....                                                                                                                     |  | 15        |
| Business papers, printed matter, and merchandise samples, per 50 grammes....                                                          |  | 5         |
| <i>Foreign.</i>                                                                                                                       |  |           |
| Single letter, per 15 grammes .....                                                                                                   |  | 50        |
| Postal card .....                                                                                                                     |  | 15        |
| Business papers, printed matter, and merchandise samples, per 50 grammes<br>(with a minimum of 25 centimes for business papers) ..... |  | 10        |
| <i>Charge for registry.</i>                                                                                                           |  |           |
| Domestic .....                                                                                                                        |  | 25        |
| Foreign .....                                                                                                                         |  | 50        |
| Notice of receipt .....                                                                                                               |  | 25        |

N. B.—Correspondence intended for neighboring colonies, as far as and including Libreville on the north and Mossamédès in the south, pays the same rate of postage as domestic correspondence.

[Inclosure in No. 48.—Official Bulletin of the Independent State of the Congo, second year, No. 1.—Extracts.—Translation.]

The Sovereign King received, in reply to the notification of his accession as Sovereign of the Independent State of the Congo, letters on the 22d of December, 1885, from His Majesty the Emperor of Brazil; on the 2d of January, 1886, from His Excellency the President of the Argentine Republic.

By royal decree of January 7, 1886, a penal code was enacted, and courts of first instance and a court of appeals were established.

The court of appeals was to sit at Boma; the courts of first instance at points to be fixed.

## No. 11.

*Mr. Tree to Mr. Bayard.*

No. 51.]

LEGATION OF THE UNITED STATES,  
Brussels, February 20, 1886. (Received March 6.)

SIR: The newspapers here announce the completion of financial arrangements by the Free State of the Congo with the Société Générale, of Brussels; the Landesbank, of Vienna; the house of Mendelssohn, of

Berlin; Le Comptoir d'Escompte, of Paris, and a group of German financiers, for the loan of 100,000,000 of francs for the use of the Congo State.

According to the plan said to be adopted, the whole amount is to be divided into lots of 20 francs, not bearing any interest and reimbursable by annual drawings in seventy-five years. A scale of premiums has been adopted, some of which are very high, one of 1,000,000 of francs figuring at the head of the list. The scheme, of course, simply means a lottery.

It is said that it is expected that if the scheme is successful the Congo State will realize by the operation 30,000,000 of francs, the bankers who are to float the loan about twenty millions, while the remaining fifty millions will be used towards the redemption of the bonds and payment of the premiums.

These 50,000,000 of francs, which are to be dedicated to the bondholders under the terms of the agreement, are to be invested in Belgium as a guarantee fund, under management entirely independent of that of the State of the Congo.

As the French and German laws, however, do not permit foreign lotteries, it is evident that the managers of the scheme will be compelled to seek markets outside of these countries. This is equally true of Belgium, but I believe it is expected that a special law will be passed authorizing the sale here of these bonds.

I have, &c.,

LAMBERT TREE.

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No. 12.

*Mr. Tree to Mr. Bayard.*

No. 54.]

LEGATION OF THE UNITED STATES,  
*Brussels, March 12, 1886. (Received March 23.)*

SIR: The governor of the National Bank of Belgium has recently made his annual report to the shareholders, showing the transactions of the bank for the year ending 31st of December, 1885. This bank acts in a large measure as the cashier and financial agent of the Government. The state appoints the governor and the directors are elected by the shareholders. Its capital stock is represented by 50,000 shares of 1,000 francs each. The present actual market value of a share, however, owing to its great financial success, is quoted at 3,060 francs.

The report gives some interesting facts. The whole movement of the bank for the past year amounts to 16 milliards of francs. Its net profit for the first half year was 3,727,388 francs, and for the second half year 3,727,874 francs. A dividend of 108 francs a share has been paid to the shareholders, and 13 francs and 37 centimes on each share transferred to the reserve, which now amounts to 18,875,882 francs, all invested in Belgian state funds.

Under the law of the bank's organization the state also receives certain benefits from its business. It is required to pay into the state treasury one-quarter of the profits exceeding 6 per cent. interest on the capital of the bank, also one-quarter of 1 per cent. on the average circulation of the bills exceeding 275,000,000. It is also required to loan the idle moneys of the Government on deposit, the bank being liable for any losses it may make by such loans, and the profits thereon, except a small percentage, going into the Government treasury.



The report shows, therefore, that besides the net profit for the year to the shareholders of more than 12 per cent., the state has received out of the business the following substantial benefits :

|                                                                                                   | Francs.               |
|---------------------------------------------------------------------------------------------------|-----------------------|
| One-quarter of the benefit exceeding the interest of 6 per cent. on the capital of the bank ..... | 1, 113, 815. 38       |
| From stamps on bills .....                                                                        | 173, 189. 43          |
| Paid to the Government for services to the bank by Government employés in the provinces .....     | 175, 000. 00          |
| Taxes paid by the bank .....                                                                      | 152, 296. 98          |
| One-quarter per cent. on the average circulation of bills exceeding 275,000,000 francs .....      | 339, 205. 64          |
| Interest on Government deposits realized .....                                                    | 860, 564. 00          |
|                                                                                                   | <hr/> 2, 814, 071. 43 |

Thus the profits of the state for the year 1885 out of the business of the bank are something like \$560,000.

In spite of the commercial crisis the total amount of discounts of bills on Belgium has slightly augmented, it being nearly 6,000,000 francs more than in 1884.

The average rate of discount has been 3.28 per cent., against 3.32 per cent. in 1884.

The governor concludes his report with some general observations on the subject of the renewal of the monetary convention of the Latin Union.

I have obtained two copies of the report through the courtesy of M. Jamar, the governor of the bank, which I have the honor to transmit to you, under separate cover, as printed matter, one of which I thought it was possible you might desire to send to the Secretary of the Treasury.

I have the honor, &c.,

LAMBERT TREE.

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No. 13.

*Mr. Tree to Mr. Bayard.*

No. 57.]

LEGATION OF THE UNITED STATES,  
Brussels, March 16, 1886. (Received March 29.)

SIR : I have the honor, in acknowledging the receipt of your instruction No. 28, of the 24th ultimo, to inform you that I have, in accordance with your request, sent to you by this mail, under separate cover, as printed matter, two additional copies of the Official Bulletin No. 2 of the Independent State of the Congo. I have also placed under the same cover two copies each of the Official Bulletins 1 and 2, of 1886, which have been just issued by the Government.

No. 1 seems to be a republication of the decree organizing the judicial system of the State, and announcing the appointment of the judges of the court.

No. 2 publishes decrees regulating the mode of the publication of official acts, the further organization of the postal service, the legalization of certain documents, the protection of the port of Bavana, and the establishment of an export duty on certain products of the country, which are named in a schedule attached to the decree.

I also desire to call your attention to a decree published on page 32 *et seq.* of this number, which determines the condition on which sea-going vessels may acquire a Congolaise nationality.

It may not be irrelevant, in this dispatch, also to say that it is announced here that the Pope has employed himself in regulating the

ecclesiastical situation of the Independent State of the Congo. It is said that, conformably to the views of the King of Belgium, Leo XIII has accorded to the Archbishop of Malines supreme ecclesiastical jurisdiction in the Congo State, and has designated him as the chief of all the future clergy of that territory.

The new African Seminary of Louvain will prepare the ecclesiastics intended to occupy the parishes to be formed in the Congo.

I have, &c.,

LAMBERT TREE.

[Inclosure in No. 57.—Official Bulletin of the Independent State of the Congo.—Second year.—No. 2.—Extracts.—Translation.]

The Sovereign King received, in reply to the notification of his accession as Sovereign of the Independent State of the Congo, letters—

On the 14th of January, 1886, from His Majesty the King of the Hellenes.

On the 16th of February, 1886, from His Excellency the President of the Dominican Republic.

On the 25th of February, 1886, from His Excellency the President of the Republic of Hayti.

On the 1st of March, 1886, from His Excellency the President of the Republic of Venezuela.

By a royal decree of the 7th of February, 1886, it was declared that no sea-going ship, except those belonging to the State, should be permitted to navigate under the flag of the State, unless it was provided with a commission delivered according to the provisions of the said decree.

These commissions can be issued, under the decree, to ships which belong more than half: (a) To subjects; (b) to commercial associations whose legal personality the law recognizes, and which have a place of business or a branch house in the Congo; (c) to foreigners who have resided a year in the territory of the State, and who continue to reside there.

The commission expires: (a) After four years' duration; (b) by the change of name of the ship; (c) by the employment of the ship as a corsair, pirate, or in the slave trade; (d) when the ship no longer fulfills the conditions mentioned above as to ownership; (e) in case of the capture or destruction of the ship.

By a royal decree of December 15, 1885, an export duty was laid on certain products exported to foreign countries, whether by way of the Congo or by sea.

*Schedule of export duties.*

| Merchandise.    | Rate per<br>100 kilog. | Merchandise.   | Rate per<br>100 kilog. |
|-----------------|------------------------|----------------|------------------------|
|                 | <i>France.</i>         |                | <i>France.</i>         |
| Groundnuts..... | 1.50                   | Palm oil ..... | 2.50                   |
| Coffee.....     | 1.00                   | Ivory.....     | 50.00                  |
| Caoutchouc..... | 20.00                  | Palm nuts..... | 1.20                   |
| Copal.....      | 8.00                   | Sesame.....    | 1.70                   |

For quantities less than 100 kilograms the duty is to be collected proportionally to the above rate.

No. 14.

*Mr. Tree to Mr. Bayard.*

No. 58.]

LEGATION OF THE UNITED STATES,  
Brussels, March 18, 1886. (Received March 31.)

SIR: Referring to my numbers 30 and 43, with reference to the project of law concerning the rights of authors, I have the honor to inform you that the amendment which the Senate had added to the 14th

article, in making the protection afforded by that article apply to telegrams as well as to other writings, was rejected by the Chamber of Deputies on its return to that body, and the article restored to its form as originally adopted by the Chamber. Two or three days since the Senate receded from its amendment, and passed the *projet* as it came for the second time from the Chamber.

This law has been very carefully studied by Belgian publicists, and was thoroughly discussed in both of the legislative chambers. The subject has been before the Belgian Parliament since 1877 in some form, and very general satisfaction is expressed here in the newspapers and literary circles at the adoption of the law.

I inclose you herewith a copy of the law in the form in which it will go to the King for approval. It is substantially the same as the one of which I have already sent a translation.

I have, &c.,

LAMBERT TREE.

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[Inclosure in No. 58.]

BELGIAN SENATE. DRAFT OF A LAW CONCERNING THE RIGHTS OF AUTHORS.

Leopold II, King of the Belgians, to all whom it may concern, greeting:

The Chambers have adopted and we approve the following:

SECTION I.—*Of the rights of authors generally.*

ARTICLE 1. The author of a literary or artistic work has alone the right to reproduce it, or to authorize its reproduction in any manner and under any form whatsoever.

ART. 2. This right continues through a period of fifty years from the author's death for the benefit of his heirs or assigns.

ART. 3. The right of the author is personal, assignable, and transmissible, in whole or in part, conformably to the rules of the civil code.

ART. 4. The owners of a posthumous work enjoy the author's right during a period of fifty years, commencing to run from the day on which it is published, represented, rendered, or exhibited.

A royal decree shall determine the manner of ascertaining the date from which the period of fifty years shall begin to run.

ART. 5. When the work is the result of collaboration the author's right exists for the benefit of all entitled until fifty years after the death of the survivor of the collaborators.

ART. 6. When the author's right is unpartitioned, the exercise of this right is defined by the agreements. If there are no agreements, none of the joint owners can exercise it singly, it being reserved for the courts to decide in case of disagreement.

But each of the joint owners is freely entitled to bring suit in his own name, and without joining the others, for any injury which may be inflicted on the author's right, and to ask damages for his share.

The courts shall always have the power to subject the authority to publish the work to such limitations as they shall see fit to prescribe; they shall have the power to decree, on the petition of the adverse joint owner, that he shall neither share the expense nor the profits of the publication, or that the name of the collaborator shall not appear on the work.

ART. 7. The publisher of an anonymous or pseudonymous work is considered, so far as third parties are concerned, as the author thereof.

As soon as the latter makes himself known, he reassumes the exercise of his right.

ART. 8. The assignee of the author's right or of the object which embodies a work of literature, music, art, or drawing has not the right to alter the work in order to sell it or derive profit from it, nor to publicly exhibit the altered work without the consent of the author or of those deriving their title from him.

ART. 9. Literary or musical works, so long as they are unpublished, and during the author's life, other works of art so long as they are not ready for sale or publication, are always free from liability to seizure.



SECTION II.—*Of the author's right in literary works.*

ART. 10. The author's right extends not only to writings of every character, but to lessons, sermons, lectures, speeches, or to every other oral expression of thought.

But speeches delivered in deliberative assemblies, during the public sessions of the courts, or at political meetings, may be freely published, but the right of printing them separately belongs to the author only.

ART. 11. The official acts of the governmental authorities do not entitle to the author's right.

All other publications made by the state or the public departments do entitle to the author's right, either for the benefit of the state, or these departments, during a period of fifty years, commencing with their date, or for the benefit of the author, if he has not alienated it in favor of the state or these departments. A royal decree shall determine the method of ascertaining the date of the publication.

ART. 12. The author's right in a literary work includes the exclusive right to make or authorize the translation of it.

ART. 13. The author's right does not exclude the right of making quotations when they are made for the purpose of criticism, discussion, or instruction.

ART. 14. Every newspaper has the right to reproduce an article published in another newspaper, provided that it indicates the source thereof, unless this article bears the special notice that its reproduction is forbidden.

ART. 15. The right of representation of a literary work is defined in conformity with the provisions relating to musical works.

SECTION III.—*Of the author's right in musical works.*

ART. 16. No musical work can be publicly rendered or represented wholly or partly without the consent of the author.

ART. 17. The author's right in musical compositions includes the exclusive right of making arrangements on motives of the original work.

ART. 18. In the case of works composed of words or of librettos and music, the composer and the author have not the right to make a contract with a new collaborator respecting their work. Nevertheless, they shall have the right to derive profit from it separately, by means of publications, translations, or public renditions.

SECTION IV.—*Of the author's right in plastic works.*

ART. 19. The transfer of a work of art does not carry with it the assignment of the right of reproduction for the profit of the transferee.

ART. 20. Neither the author nor the owner of a portrait has the right to reproduce it or to exhibit it publicly without the consent of the person represented or of those deriving title from him during the period of twenty years, commencing with his death.

By virtue of the said consent the owner has the right of reproduction, but the copy is not entitled to bear the superscription of an author's name.

ART. 21.—The work of art reproduced by industrial processes or applied to industry remains, nevertheless, subject to the provisions of the present law.

SECTION V.—*Of piracy and its repression.*

ART. 22. Every malicious or fraudulent injury inflicted on the right of the author constitutes the crime of piracy.

Those who knowingly sell, expose for sale, keep in their shops in order that they may be sold, or bring into Belgian territory for commercial purposes the objects pirated are guilty of the same offense.

ART. 23. The offenses specified in the preceding article shall be punished by a fine of 26 to 2,000 francs. The confiscation of the works or objects pirated, as well as of the plates, molds, or matrices, and other utensils which have directly served to commit these offenses, shall be decreed against those adjudged guilty.

ART. 24. In case of a rendition or representation being had to the prejudice of the author's rights, it shall be in the power of the *police judiciaire* to seize the receipts thereof as objects resulting from the offense, and they shall be paid over to the complainant as a credit on the damages due him, but only in proportion to the part which his work has had in the representation or rendition.

ART. 25. The malicious or fraudulent inscription on a work of art, of literature, or of music of the author's name, or of any distinctive mark chosen by him to designate his work, shall be punished by an imprisonment of three months to two years and by a fine of 100 to 2,000 francs, or by one of these punishments only.



The confiscation of the objects pirated shall be decreed in all cases.

Those who knowingly sell, expose for sale, keep in their shops, or bring into Belgian territory, in order that they may be sold, the objects specified in the first paragraph shall be punished by the same penalties.

ART. 26. For infractions of the present law, except those provided for by article 25, action can only be brought on the complaint of the person who declares himself injured.

ART. 27. If extenuating circumstances exist, the punishments declared by the present law may be reduced, conformably to article 85 of the penal code.

ART. 28. The following provision is added to No. 23 of the first article of the law of March 15, 1874, on extradition: "Also for the offense provided for by article 25 of the law on authors' rights."

#### SECTION VI.—*Civil action growing out of authors' rights.*

ART. 29. The parties entitled to the author's right may, with the authorization of the president of the court of first instance of the place of piracy obtained on their complaint, cause description to be made, by one or more experts to be designated by this judge, of the objects alleged to be pirated or of the acts of the piracy and of the instruments which have directly served to accomplish them.

The president may by the same decree forbid the possessors of the objects pirated from parting with them, allow a keeper to be appointed, or even have the objects put under seal. This decree shall be served by an officer commissioned for that purpose.

In the case of acts causing the receipt of money, the president may, for safe-keeping, authorize the seizure of the moneys by an officer commissioned by him.

ART. 30. The complaint shall set out the choice of domicile in the communes where the description is to be made.

The experts shall be sworn by the president before commencing their labors.

ART. 31. The president may require of the complainant the deposit of security. In this case the decree shall not be rendered save on proof that the deposit has been made. Security shall be always required of a foreigner.

ART. 32. The parties may be present at the description if they are specially authorized to be so by the president.

ART. 33. If the doors are closed, or if their opening is refused, it is done in conformance with article 587 of the code of civil procedure.

ART. 34. Copy of the description minutes shall be sent by the experts, under registered letter, with the shortest delay, to the party on whom the seizure is made and to the seizing party.

ART. 35. If, within the space of one week from the date of this transmission, to be proved by the stamp of the post-office, or from the seizure for safe-keeping of the moneys received, appearance has not been entered before the court within whose jurisdiction the description was made, the decree shall of itself become null and void, and the possessor of the objects described or of the moneys seized may demand the delivery of the original of the minutes, with a decree forbidding the complainant to make use of its contents and to publish it, the whole without prejudice to the damages.

ART. 36. The consular jurisdiction has no cognizance of the actions which arise from the present law.

The cause shall be decided as a summary and urgent affair.

ART. 37. The moneys and the objects confiscated may be adjudged to the complainant on account, or in satisfaction of the injury suffered.

#### SECTION VII.—*Rights of foreigners.*

ART. 38. Foreigners enjoy in Belgium the rights guaranteed by the present law, without the possibility of the duration of these rights, so far as they are concerned, exceeding the duration thereof fixed by the Belgian law. But if they expire sooner in their own country, they are to cease to exist at the same time in Belgium.

#### SECTION VIII.—*Temporary provision.*

ART. 39. Contracts on the subject lawfully made by virtue of previously existing laws are in no way affected. Authors, or their heirs, whose exclusive rights growing out of these laws are not exhausted at the date of publication of the present law, shall in the future be governed by the latter; if before this publication they have transferred the whole of their rights, the latter shall remain subject to the laws in force at the time of the transfer.

SECTION IX.—*Repeal of existing laws.*

ART. 40. All previously existing provisions relating to the author's right defined by the present law are hereby repealed.

Brussels, 4 February, 1886.

President of the Chamber of Representatives,  
The secretary,

T. DE LANTSHEERE.

L. DE SADELEER.

No. 15.

*Mr. Tree to Mr. Bayard.*

No. 60.]

LEGATION OF THE UNITED STATES,  
*Brussels, March 20, 1886. (Received April 5.)*

SIR: I have the honor to inform you that one August Carl Alwin Cranz called to-day at the legation and made application for a passport as a citizen of the United States. In the application signed and sworn to by him he declares that he was born at Hamburg, Germany, about the 19th day of April, 1860, and emigrated to the United States the 18th day of September, 1877; that he was naturalized at Boston in 1882; that he is the bearer of passport No. 5450, issued by the Secretary of State on the 26th of March, 1883; that he left the United States the last time the 22d day of December, 1883; that he is now residing temporarily at Brussels; that he has committed no act nor had any intention to forfeit his rights as a citizen of the United States; *that he has no intention to return to the United States to reside, though it is possible he may sometimes make a visit there; that he desires the passport for the purpose of residing in Europe.*

He did not have his certificate of naturalization with him, but will bring it to me. I have no doubt he possesses such a certificate. I, however, informed him, that even after seeing his certificate of naturalization and finding it to be regular, I could not see my duty clearly to issue him a passport until I had written to the Department for instructions as to whether a person holding a certificate of naturalization as a citizen of the United States was entitled to a passport, who in his application expressly declares that he has no intention to return to the United State to reside, and wishes the protection which the paper may give him for the purpose of residing in Europe.

In the course of the conversation Mr. Cranz informed me that his father resided in Austria, of which country he is a subject, and that he and his father are engaged in trade in Europe.

For my guidance in this and future cases I would be very glad to have the instruction of the Department as to whether it is proper to issue a passport under this state of facts. As Mr. Cranz is living here, he will sustain no inconvenience by the delay in case you are of the opinion that he should have one.

I have, &c.,

LAMBERT TREE.

No. 16.

*Mr. Bayard to Mr. Tree.*

No. 34.]

DEPARTMENT OF STATE,  
*Washington, April 9, 1886.*

SIR: Your dispatch No. 60, of the 20th ultimo, asking for instructions as to whether or not the Department approves of your course in

declining to issue a passport to one August Carl Alwin Cranz, has been received.

It appears from your dispatch that Mr. Cranz was born at Hamburg, Germany, about the 19th day of April, 1860; that he emigrated to America on the 18th day of September, 1877; that he was naturalized at Boston in 1882; that he left the United States the last time on the 22d day of December, 1883; that he is now residing temporarily at Brussels; that his father resides in Austria, of which country he, the father, is a subject; and that he and his father are engaged in trade in Europe. You state, moreover, that in the application signed and sworn to by Mr. Cranz for a passport he declares that he "*has no intention to return to the United States to reside*, though it is possible he may sometime make a visit there, and that he desires the passport for the purpose of residing in Europe."

Section 4075 of the Revised Statutes provides that the Secretary of State *may* grant and issue passports, and *may* cause them to be issued by such diplomatic and consular officers as the President shall designate.

Under the statute it is always a matter of discretion in each individual case as to whether or not a passport shall be issued. As it appears that Mr. Cranz resided in the United States barely long enough to be naturalized, and as it appears that he has no intention to return to this country to reside, or to take upon himself here the duties and obligations of American citizenship, the Department fully approves of your course in declining to issue him a passport.

I am, sir, &c.,

T. F. BAYARD.

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No. 17.

*Mr. Tree to Mr. Bayard.*

No. 84.]

LEGATION OF THE UNITED STATES,  
Brussels, April 20, 1886. (Received May 3.)

SIR: I have the honor to inform you that there are evident signs of a general renewal of the strikes at the Belgium collieries. Strikes already exist at Jumet, Lodelinsart, Marchiennes, and Gosselies, and the movement seems to be spreading.

The attitude of the workmen is, however, pacific. The Government still keeps a military force in the neighborhood of the collieries.

Most of the glass works and other establishments have resumed operations, but the men are reported to have returned to work sullenly.

As far as I can learn, there does not seem to be any specific cause for these troubles here. There has been no recent reduction of wages. The workmen, however, and especially the miners, appear to be discontented with their lot, and there is no doubt that the wages the miners receive are very low. Professional agitators, who are numerous in Belgium, as in other countries of Europe, have been industriously circulating among the men and have found good soil to work in the general discontent which prevails in view of the struggle to live in a country which is so overcrowded. It is also apparent that the various anarchic organizations throughout the kingdom have, for political reasons, taken a hand in the troubles, and have contributed considerably towards keeping up the excitement among the workmen.

The true explanation probably exists in the fact that there are too many people in Belgium, and the most efficient relief that could hap-



pen both to the Government and the workmen would be in emigration. They are industrious, economical, ordinarily peaceable and law-abiding, and would be a valuable acquisition to the populations of new countries which are in need of more men. Unfortunately for themselves the Belgians are not disposed to emigrate to any great extent.

Mr. Beerncart, in a statement he made in the Chamber of Deputies shortly after the suppression of the riots at Charleroi, said that the mines had not paid the owners two per cent. on the capital invested for the past 10 years, and that if the whole profits were divided among the workmen during that period it would have given them but twenty francs more per annum. If this statement is true, the wages of the workmen would not have been materially altered if the mines had been turned over to them entirely.

So far as the glass-works are concerned, the hostility to and destruction of them does not seem to have been caused so much by a question of wages as by the fact of the introduction by some of the proprietors of new labor-saving machinery. This was especially so with reference to the establishment Baudoux. This establishment employed about two thousand hands, none of whom, as the evidence shows, received less than 100 francs per month, and some of the glass-blowers made as much as 1,500 francs a month. Mr. Baudoux, being a very enterprising man, had introduced extensive improvements in the art of manufacturing, which the workmen were led to believe did, or would eventually, conflict with their interests, and when the riots at Charleroi broke out they marched to his establishment, and after breaking up the machinery set fire to the buildings and burnt them to the ground, together with his dwelling-house. His own men took no part in the destruction, and were at work when the strikers from the collieries and other establishments attacked the Baudoux buildings. They did not, however, make any attempt to resist the attack. It is said that a curious incident has grown out of the destruction of this establishment Baudoux. The men employed there, finding themselves now out of work, are taking measures to bring actions against the commune for damages occasioned to them by loss of wages in the destruction of the works by the rioters. The proprietors who have sustained damages to their properties also demand full compensation from the commune. As it is not likely, however, that the commune will be able to pay all of these damages, the proprietors will have to pocket most of the loss unless the Government comes to their relief.

I think there is some uneasiness felt over the situation in consequence of the recent disturbances. As evidence of this the Government has introduced in the Chamber of Deputies a series of measures, embracing a *projet* of law authorizing the department of finance to open a credit of one million of francs, in order to come to the aid of the industrial establishments which have suffered the most serious damage, and which have not the resources to make the necessary repairs without delay. It is proposed to aid them by making advances at 3½ per cent. interest, the question of responsibility for damages by reason of the acts of the mob being expressly left open.

Also the *projet* of a law to punish the provokers of crimes and misdemeanors, even in cases when the provocations have not been followed by effects. The intent of the proposed law seems to be to reach those who by speeches in public places, or by placards or emblems, directly provoke the commission of acts defined by the law as crimes or misdemeanors. Also a *projet* of law forbidding the sale or distribution of fire-arms to persons not authorized to carry them, and merchants are



required to keep a register of all sales, mentioning the name and domicile of the purchaser, with other details. Also a *projet* of law regulating in the interest of the public security the manufacture, sale, transportation by land and water, the mode of employment, the detention and carriage of ordinary powder, and all other explosive substances and murderous engines acting by explosion.

The King, on the recommendation of the ministers of finance and of agriculture, industry, and public works, has also appointed a special commission by royal decree, charged to inquire into and attentively study the state of the working populations and the industries which employ them in the kingdom, and also the measures to be taken with a view to ameliorate the situation.

This commission numbers thirty-five members, and is composed of some of the most eminent men of Belgium, including members of both houses of Parliament, ministers of state, publicists, economists, mining engineers, university professors, editors, lawyers, clergymen, and representatives of the working class.

I have, &c.,

LAMBERT TREE.

No. 18.

*Mr. Bayard to Mr. Tree.*

No. 41.]

DEPARTMENT OF STATE,  
Washington, May 3, 1886.

SIR: I transmit to you herewith a copy of a letter\* which has been addressed to this Department by Mr. D. W. Ostrander, of Clintondale, N. Y., in relation to an estate of \$400,000 said to have been left about one hundred years ago by one Hannah Rouk, in Belgium.

This is the first letter which this Department has received from claimants in regard to this estate; but, judging from past experience, it is probable that inquiries from all quarters will soon pour in from heirs to the alleged estate. I will thank you to make inquiries in the proper quarter with a view to ascertain, if practicable, whether the alleged estate has any existence. In the same connection it would be desirable to have a report as to the disposition made of unclaimed estates in Belgium, and as to the statutes of limitation applicable to such matters.

Should the Department continue to receive inquiries in relation to the Rouk estate, it will probably be necessary to issue a circular in relation to the subject, hence it is desirable that your report should be furnished as soon as practicable.

I am, sir, &c.,

T. F. BAYARD.

No. 19.

*Mr. Tree to Mr. Bayard.*

No. 88.]

LEGATION OF THE UNITED STATES,  
Brussels, May 5, 1886. (Received May 17.)

SIR: I have the honor to inform you that I have to-day transmitted to you, under separate cover, as printed matter, two copies each of numbers 3 and 4 (1886) of the "Bulletin Officiel de l'État Indépendant

\* Inclosure not published.

du Congo." They contain a number of decrees and ordinances with reference to the Government of the State, the most important of which seems to be the decree found in No. 3, at page 46 *et seq.*, concerning the extradition of criminals.

I have, &c.,

LAMBERT TREE.

[Inclosure in No. 83.—Official Bulletin of the Independent State of the Congo.—Second year.—No. 3.—Extracts.—Translation.]

The Sovereign King received, in reply to the notification of his accession as Sovereign of the Independent State of the Congo, letters—

On the 3d of March, 1886, from His Excellency the President of the Republic of Guatemala;

On the 13th of March, 1886, from His Excellency the President of the Republic of Paraguay;

On the 18th of March, 1886, from His Excellency the President of the Republic of Costa Rica;

On the 23d of March, 1886, from His Excellency the President of the Free State of Orange;

On the 2d of April, 1886, from His Excellency the President of the Oriental Republic of Uruguay;

On the 8th of April, 1886, from His Majesty the Emperor of Persia;

On the 12th of April, 1886, from His Excellency the President of the Republic of Ecuador;

On the 15th of April, 1886, from His Majesty the King of Hawaii.

By a royal decree of the 28th of March, 1886, the Administrator-General of the Congo was empowered to issue decrees having the force of laws. At the end of six months these decrees are to lose their power, unless approved by the Sovereign.

By a decree of the Administrator-General of the Congo, dated April 1, 1886, the jurisdiction of the Court of First Instance of the Lower Congo was defined as comprising the territory lying north of the Congo River, between the Atlantic Ocean, the frontiers of the Portuguese and French possessions, and the meridian passing through the point of junction of the River Lulua; and, south of the river, the territory lying between the river of the Mpozo and the meridian passing through the mouth of the river Wango-Wango.

By a royal decree of the 23d of April, 1886, the seat of the Court of First Instance of the Lower Congo was fixed at Banana.

[Second year.—No. 4.]

#### DEPARTMENT OF FINANCE.—PROVISIONS CONCERNING REAL PROPERTY.

Leopold II, King of the Belgians, Sovereign of the Independent State of the Congo.

To all to whom these presents shall come, greeting:

Referring to our decree of August 22, 1885, by which foreigners, who had rights to be established to lands lying within the Independent State of the Congo, were invited to present, before April 1, 1886, petitions for registration with the view of causing the recognition and attestation of these rights by the State;

Whereas our Administrator-General of the Congo has the necessary powers to extend, in case of necessity, the term fixed in our decree above mentioned; but whereas the slow presentation of petitions for registration will have the effect of causing increased expenses to the State; and whereas, moreover, it is the interest of all that the real property of foreigners should be officially verified and settled within the shortest period possible;

On the proposal of our Council of Administrators-General,

We have decreed, and do hereby decree:

#### ARTICLE 1.

The fee for registration, fixed by Article 8 of our decree of August 22, 1885, may be increased by ordinance of our Administrator-General for lands whose registration has not yet been requested.

## ARTICLE 2.

Our said Administrator-General is likewise empowered to establish, by ordinance, an extreme term beyond which no petition for registration for the lands had in view by our decree of August 22, 1885, shall be received.

If, after the expiration of this term, foreigners should attempt to establish, to lands not declared for registration, rights anterior to the publication of our decree above mentioned, these rights shall not be recognized by the State, unless the interested parties shall prove to the satisfaction of our Administrator-General of the Congo that they were in a situation in which it was impossible for them to present their petitions in proper time.

## ARTICLE 3.

The Administrator-General of the Department of Finance is charged with the execution of the present decree.

Given at Brussels, April 24, 1886.

LEOPOLD.

By the Sovereign King:

The Administrator-General of the Department of Finance,

HUB. VAN NEUSS.

## No. 20.

*Mr. Tree to Mr. Bayard.*

No. 89.]

LEGATION OF THE UNITED STATES,  
*Brussels, May 6, 1886. (Received May 17.)*

SIR: Referring to my No. 84, I have the honor to inform you that the Commission recently appointed by royal decree to inquire into and report the condition of industrial labor in Belgium has organized and commenced its sessions. Mr. Pirmey, minister of state, and a director of the National Bank has been elected its president, and Mr. Jacobs, ex-minister of the interior, vice-president. The Commission has resolved to create from among its members three subcommittees of inquiry, the first for general statistics, the second for the relations between capital and labor, and the third for the material and moral condition of the working classes.

In view of the men of ability and experience composing each of these subcommittees, some very interesting reports on the subjects referred to them may be reasonably expected.

Whatever solutions may be proposed by these subcommittees will be discussed in open session of the full Commission.

I have, &c.,

LAMBERT TREE.

## No. 21.

*Mr. Bayard to Mr. Tree.*

No. 43.]

DEPARTMENT OF STATE,  
*Washington, May 18, 1886.*

SIR: Your despatch No. 89, of the 6th instant, in which you state that the Commission appointed on the condition of industrial labor in Belgium has organized and commenced its sessions, has been received. I shall be much obliged to you for reports as to the proceedings of the Commission, and as to the conclusion reached by it.

I am, sir, &c.,

T. F. BAYARD.

No. 22.

*Mr. Bayard to Mr. Tree.*

No. 44.]

DEPARTMENT OF STATE,  
*Washington, May 21, 1886.*

SIR: The copies of the "Bulletin Officiel de l'État Indépendant du Congo," which accompanied your dispatch No. 88, have been received. The decree found in No. 3, at page 46 *et seq.*, concerning the extradition of criminals, has been carefully examined.

It is not seen that in the possible case of a fugitive from the justice of this country taking refuge in the Congo States his recovery could be effected by us under Article I of the decree, since we could not base a special arrangement for the particular case upon an offer of reciprocity on our part in the absence of a treaty.

It might have been more convenient had the Congo States adopted the existing extradition treaties of Belgium and applied them to their own territory; in which case a simple protocol between the United States, Belgium, and the Congo States would have sufficed to extend our Belgian stipulations.

This Government will consider the advisability of negotiating a convention of extradition with the Congo States; but at present the remote prospect that such a treaty will be found necessary or useful does not suggest urgency.

I am, sir, &amp;c.,

T. F. BAYARD.

No. 23.

*Mr. Tree to Mr. Bayard.*

[Extract.]

No. 108.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 12, 1886. (Received June 26.)*

SIR: I have the honor to acknowledge the receipt of your No. 44, which comments on the decree of the Congo Independent State, concerning the extradition of criminals.

The construction which you place on Article I of the decree, which seems to be without doubt the correct construction, would, as you observe, preclude us from effecting under it the return of a fugitive criminal if it were strictly adhered to.

I met Mr. van Eetvelde, the administrator-general of the Congo State, to-day, and in the course of conversation called his attention to the terms of Article I of the decree in question. He said that if a case arose in which the United States Government should signify its desire for the return of a criminal escaping into the Congo Independent State, such criminal would be arrested, and on the proper showing as to the character of the offense would be delivered to our Government. That he could assure me that this would be done without regard to whether there was any extradition treaty or reciprocal arrangement with our Government or not. \* \* \*

I think there is no doubt that the Government of the Congo Independent State would be agreeable to the formation of an extradition treaty if the Government of the United States should deem it necessary or useful.

I have, &amp;c.,

LAMBERT TREE.

3 F R



No. 24.

*Mr. Tree to Mr. Bayard.*

No. 112.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 17, 1886. (Received June 28.)*

SIR: I have the honor to inform you that I have sent by mail of to-day, under separate cover, as printed matter, three copies of "The Moniteur Belge" of the 16th instant, which officially prints in its issue of that date a treaty of friendship and commerce concluded between Belgium and the Republic of Liberia.

I have, &amp;c.,

LAMBERT TREE.

[Inclosure in No. 112.]

## TREATY.

His Majesty the King of the Belgians and His Excellency the President of the Republic of Liberia, desiring to settle in a definite and complete manner the commercial relations between Belgium and the Republic of Liberia, have decided to conclude, for this purpose, a new treaty, and have appointed as their respective plenipotentiaries:

His Majesty the King of the Belgians, the Prince de Caraman, officer of his Order of Leopold, Grand Cross of the Order of the Polar Star of Sweden, &c., his Minister of Foreign Affairs;

His Excellency the President of the Republic of Liberia, Adolphe Louis, Baron de Stein, Commissioner and Special Plenipotentiary of his Government;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ART. I. There shall be perpetual peace and friendship between the Kingdom of Belgium and the Republic of Liberia, as also between the subjects and citizens of both countries.

ART II. There shall be reciprocal freedom of commerce between the Kingdom of Belgium and the Republic of Liberia. The Belgians may reside and trade in any part of the territory of the republic to which any other foreigners may be admitted; they shall enjoy full protection for their persons and property; they shall be free to buy from and sell to whom they please, without any prejudice or restriction being placed upon them by any monopoly, contract, or exclusive privilege of sale or purchase whatsoever.

They shall have the right to possess personal property of all kinds and to dispose of the same according to the laws of the country, to succeed to and transmit the inheritance of such property by testament or *ab intestato*, on the same footing with the Liberians, without being subject, on account of their quality of foreigners, to any defalcation or tax to which the citizens and subjects of Liberia would not be subject. They shall enjoy, besides, all other rights and privileges which are or may hereafter be accorded to any foreigners whatsoever, subjects or citizens of the most favored nation. The citizens of the Republic of Liberia shall enjoy, in return, the same protection and privileges in the Kingdom of Belgium.

ART. III. No tonnage duty or other duties, charges, or taxes shall be levied in the Republic of Liberia on Belgian vessels or on goods imported or exported in Belgian vessels other or higher than those which be may levied on Liberian vessels. In like manner no tonnage duty or other duties, charges, or taxes shall be levied in the Kingdom of Belgium upon vessels of the Republic or upon goods imported or exported in Liberian vessels other or higher than those which may be levied, under the same circumstances, upon Belgian vessels or goods imported or exported by the said national ships.

ART. IV. In the following cases ships will be totally exempt from tonnage dues and enjoy the treatment of the most favored nation as regards expedition dues:

(1) The ships which, arriving in ballast, from whatever place it may be, leave in ballast.

(2) The ships which, passing from one port of one of the two states to one or more ports of the same state, whether it be to deposit all or part of their cargo, or to compose or complete their cargo, shall have already discharged these dues.

(3) The ships which, coming laden into a port, whether voluntarily or by force of circumstances, shall leave without having effected any commercial operation.

In case of compelled putting into harbor, will not be considered as commercial operations, especially the unloading and loading of merchandise for the reparation of the vessel, as also the transshipment on another vessel in case of innavigability of the first.

ART. V. The Belgian ships coming into a port of the Republic of Liberia, reciprocally the Liberian vessels coming into a Belgian port, and which disembark only a part of their cargo, may, in conformity, however, with the laws and regulations of the respective states, keep on board the part of the cargo destined to another port, be it of the same country or of another, and may re-export such cargo without being obliged to pay for this part of their cargo any custom-house duty, except those of supervision. Such dues can, besides, be only mutually levied at the rate fixed for national navigation.

ART. VI. The produce or merchandise coming from Belgium on board any ships whatever, or from any port whatever on board of Belgian vessels, shall, for importation into the Republic of Liberia, neither be prohibited nor subject to any higher duty than that levied in the same cases on the merchandise or produce coming from any other foreign country or imported on board of any other foreign vessels. All articles the produce of the Republic may be exported by Belgians and Belgian vessels on as favorable conditions as by the subjects or ships of any other foreign nation.

The same advantages shall, by reciprocity, be granted to Liberian commerce.

The goods imported in the ports of Belgium or of the Republic of Liberia by the ships of one or the other state may be put into bond where Government bonding warehouses are or will be established, delivered for transit or for exportation without being subject to duties other or higher, of whatever nature it may be, than those to which will be subject the goods brought by national vessels.

ART. VII. In case it shall be the intention of the Liberian Government to traffic in certain articles of import for the purpose of creating a revenue by selling such articles at an advance on the cost price, it is distinctly understood that in no case shall any particular merchants be prohibited from importing any of the above mentioned articles, or any other article in which the Republic may at any time find it profitable to traffic.

Moreover, neither said articles, nor any other goods in which the Government of the Republic may at any time traffic, shall be subject to any higher duties than the difference between the cost price and the price fixed by the Government for the sale of said articles.

In case the Government of the Republic shall fix the price of any article of native production, with the design that said article shall be given in payment for other articles in which the Government may traffic, all persons trading with the Republic shall be allowed, in payment of taxes, to present to the treasury the said article of native production at the price established by the government.

ART. VIII. The protection of the Republic and of the Government of the same shall be accorded to all Belgian vessels, their officers and crews. If any Belgian vessel shall have been wrecked on the coast of the Republic, the local authorities shall succor and protect the same against plunder. They shall see that all articles saved from the wreck be restored to their lawful owners. The amount of the salvage dues shall be regulated, in case of dispute, by arbitrators chosen by the two parties.

The same protection is assured by Belgium to the Liberian ships, to their officers, and to their crews.

ART. IX. The Belgians in the Republic of Liberia, and, reciprocally, the citizens of the Republic in Belgium, will enjoy perfect liberty of conscience in the matter of religion, conformably to the system of toleration observed in the respective countries where they belong.

ART. X. It being the intention of the two contracting parties to engage themselves by the present treaty to accord to each other the treatment of the most favored nation, it is agreed that all favors, privileges, or immunities whatsoever, in matters of customs, commerce, and navigation, which either of the two contracting parties has accorded or may hereafter accord to the subjects or citizens of any foreign state whatsoever shall likewise be extended to the subjects or citizens of the other contracting party.

In case of a change in the existing income duties of the Republic of Liberia, Belgian goods or produce under way at the time of such change will be admitted at the ancient rates as long as raw palm-oil and raw rubber will be free of duty in Belgium.

ART. XI. Neither of the contracting parties shall subject the other to a prohibition of importation or exportation, or of transit, which would not be applied to all other nations, except the special regulations which the two countries reserve to themselves the right to establish for a sanitary purpose or in view of events of war.

ART. XII. The Belgians in the state of Liberia or the Liberians in Belgium are exempt as well from military service on land or sea as from the service of guards or national militia, and may not be subject for their personal property to any other charges, restrictions, or taxes or dues than those to which will be subject the nationals themselves.

ART. XIII. The high contracting powers declare to recognize mutually to all com-



panies or other associations, commercial, industrial, or financial, constituted and authorized according to the special laws of either of the two countries, the power to exercise all their rights and to appear in court before the jurisdiction, be it to enter an action or defend one, in the whole extent of the states or possessions of the other power, without any other conditions than to conform to the laws of said states or possessions.

It is understood that the preceding dispositions are to be applied as well to the companies and associations constituted and authorized previous to the signature of the present treaty as also to those that will be so hereafter.

ART. XIV. The Belgian commercial travelers traveling in the Republic of Liberia on behalf a firm established in Belgium shall be treated as to the license tax on the same footing with the national travelers or those of the most favored nation; and, reciprocally, it shall be the same for Liberian travelers in Belgium.

The articles liable to the import duty, serving as samples, which will be imported by the said commercial travelers, shall be reciprocally admitted in temporary franchise, but under the necessary customs-house formalities requisite to insure their re-exportation or their reintegration into bond.

ART. XV. The goods of all nature, coming from one of the two states or going there, shall reciprocally be exempt in the other state of all transit dues, however the prohibition is maintained for gunpowder and arms of war, which the two high contracting parties reserve themselves to submit to special authorization.

ART. XVI. The ships, goods, and chattels, Belgian or Liberian, taken by pirates in the limits of the jurisdiction of one of the contracting parties or on the high sea, and which might be taken or found in the ports, rivers, roads, or bays under the dominion of the other contracting party, shall be given up to their owner on payment of the eventual costs for recapture, such to be fixed by the competent law courts after the right of property shall have been established before the competent law courts, and on the claim being made within one year date by the interested parties, by their agents acting under power of attorney, or by the agents of their respective governments.

ART. XVII. Each of the contracting parties shall be permitted to appoint consuls, vice-consuls, consular agents, to reside in the country of the other for the protection of its commerce. Nevertheless, no one of said agents shall be permitted to exercise his functions before having received authority in the usual form from the territorial government.

They shall enjoy, in their respective countries, the same privileges and the same protection both for their persons and in the exercise of their duties, that are or shall be accorded to the consuls of the most favored nations.

ART. XVIII. The respective consuls shall be permitted to have arrested and sent back, either to their vessel or to their country, such seamen as may have deserted from the vessels of their nation in the ports of the other.

To this end, the said consuls shall apply in writing to the competent local authorities and they shall justify by the exhibition of either the original or a copy duly certified of the register of the vessel or of the roll of the crew, or by other official documents, that the individuals whom it is desired to arrest formed a part of the crew. Upon this demand, thus supported, the delivery of the deserters shall be granted to them. All necessary aid shall be afforded them for arresting said deserters, who shall be detained in the public prisons, subject to the demand and at the expense of the consuls, until an opportunity of sending them home shall be presented. If, however, such an opportunity should not occur within two months from the day of the arrest, the deserters shall be set at liberty and shall not be liable to arrest for the same cause.

It is understood that the seamen subjects of the country in which the desertion shall occur shall be exempted from the present provision, unless they be naturalized citizens of the other country.

However, if the deserter shall have committed any offense, his being sent back may be delayed until the competent tribunal shall have rendered judgment and said judgment shall have been executed.

ART. XIX. The present treaty shall be in force during ten years from the date of the exchange of ratifications and beyond that term until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof; each of the high contracting parties reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned or at any later period.

ART. XX. The present treaty shall be ratified and the ratification thereof shall be exchanged at Brussels or Monrovia in the course of eighteen months, or sooner if possible, from the date of its conclusion.

In faith whereof the plenipotentiaries above-mentioned have signed the present treaty and have affixed thereto their seals.

Done in duplicate, at Brussels, the first of May one thousand eight hundred and eighty-five.

[L. S.]

BARON VON STEIN.

No. 25.

*Mr. Tree to Mr. Bayard.*

No. 114.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 21, 1886. (Received July 3.)*

SIR: Referring to my No. 89, and in compliance with your instruction No. 43, I have the honor to inform you that the Belgian Labor Commission has drawn up a series of interrogatories to serve in the investigation now in progress. There are altogether 100 questions, divided into 4 chapters. The following is an analysis of them:

*Chapter I.*—On labor; 16 questions.

*Chapter II.*—Relation between labor and capital—

(A) On wages; 6 questions.

(B) On the contract of hiring; 7 questions.

(C) On the execution of the contract of hiring; 2 questions.

(D) Workingmen's associations and employer's unions; 10 questions.

*Chapter III.*—The material situation of workingmen—

(A) Budget of receipts and expenditures of the workingmen; 8 questions.

(B) Their homes; 5 questions.

(C) Their alimentation; 6 questions.

(D) Provident institutions, mutual aid societies, assistance fund, pension fund, savings fund, emigration of population, or introduction of new industries; 15 questions.

*Chapter IV.*—The intellectual and moral situation of workingmen:

(A) Their intellectual state; 8 questions.

(B) Their moral state; 11 questions.

(C) Of alcoholism; 6 questions.

Ten thousand copies of these interrogatories will be distributed. They have been sent to the governors of the several provinces for distribution to chiefs of industrial establishments, workingmen's societies, individual workmen, and others.

A series of interrogatories is also being prepared on the subject of agricultural labor.

The Commission will also proceed next week to visit personally the various industrial centers for the purpose of prosecuting its inquiries. It travels at its own expense. At the same time I understand that the several subcommittees are making a careful study of questions, such as the labor exchange, boards of conciliation, provident funds, societies of mutual aid, &c.

The minister of foreign affairs, on my request, has kindly sent to me a copy of the royal decree of the 15th of April last, instituting the Commission, a copy of the rules which the Commission has elaborated for its guidance and regulation, three copies of the interrogatories, and a copy of the circular sent to the governors of provinces with these interrogatories, instructing them how to distribute them, &c.

I send you all of these documents by this mail, under separate cover as printed matter. I regret that their great length and lack of clerical assistance preclude my making a translation of them.

The minister also informs me that there will be no reports of subcommittees until after sufficient information has been obtained through the processes hereinbefore detailed, and that he will not fail to let me know as soon as anything further of interest on the subject transpires.

In the mean time it is a regrettable circumstance that some of the leaders of the workingmen's societies are counseling the men not to participate in this inquiry.



The newspaper published here, called "*Le Peuple*," and which is one of the organs of the workingmen and socialists, expresses itself in this manner on the subject:

The great governmental commission of industrial labor has invited the representatives of workingmen's societies to attend the session which will be held Monday morning at the *Palais des Academies*. It has, moreover, addressed a series of interrogatories to most of the workingmen's societies and to their newspapers. We remind the affiliated societies that the congress of Ghent has decided that the groups having adhered to the workingmen's party should not respond to the interrogatories and should not participate in the inquiry, and we pledge them to respect this decision.

This sort of counsel perhaps illustrates as well as anything could do the bitterness existing here on the part of the working classes towards the *bourgeoisie*. It also illustrates to some extent the importance which political agitators here place on the necessity of keeping this bitterness alive.

I have, &c.,

LAMBERT TREE.

No. 26.

*Mr. Tree to Mr. Bayard.*

No. 116.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 26, 1886. (Received July 10.)*

SIR: Referring to your No. 41 of the 3d ultimo, concerning an estate of \$400,000 said to have been left about one hundred years ago by one Hannah Rouk, in Belgium, I have the honor to report to you that, under the law pertaining to Belgium, there is a central office of registry at Brussels, in which are kept records of all unclosed estates in the Kingdom. There are also local offices of registry in every commune throughout the Kingdom, in which records are kept of the unclosed estates in each of them, and the authorities thereof are required by law to report to the central registry office at Brussels in each instance, the opening of an estate in consequence of the death of a person in such commune. This is the way in which the archives of the central registry office at the seat of Government are made up. This central registry office has been in existence since the date of the law of the 22d Frimaire, an VII (November 12, 1798). Prior to that period, under Austrian rule only, the local registries of the communes existed.

Through the kindness of the minister of foreign affairs, whose aid I invoked, I have had the archives of the central office of registry searched as far back as they extend—that is, to November 12, 1798—and no trace has been discovered of any such estate as that mentioned by you or by the letter of Mr. Ostrander.

It is evident, after the explanation of the law which I have given, that the search cannot be pursued beyond November 12, 1798, and into the local registries, without at least knowing the place of decease of Hannah Rouk.

The law of Belgium with reference to successions of estates, and limitations on the power to prosecute supposed claims or rights in such matters, I understand to be as follows:

If the deceased leaves neither heritable relatives nor natural children, the estate belongs to the surviving wife or husband, if either exists. (Art. 767 of the Code Civil.)

In default of surviving wife or husband, the succession goes to the State. (Art. 768, *ibid.*)

All estates vacant and without masters, and those of persons who die without heirs, or of which the succession is abandoned, belong to the public domain. (Art. 539, *ibid.*)

Estates which are without masters belong to the state. (Art. 713, *ibid.*)

The power to accept or repudiate a succession to an estate is laid down to be the lapse of time required for the longest limitation for the assertion of rights to landed property. (Art. 789, *ibid.*)

The language of the law is as follows:

La faculté d'accepter ou de répudier une succession se prescrit par le laps de temps requis pour la prescription la plus longue des droits immobiliers.

Article 2262 of the Civil Code declares that all actions real and personal are limited to 30 years.

In view of the provisions of article 2262, the settled interpretation given to article 789 by the Belgian courts is that the right of inheritance is limited to 30 years. After the lapse of this time the heir having lost his hereditary right is no longer an heir; he is a stranger to the succession, and can from thenceforth neither accept nor repudiate. The decisions, of course, make the ordinary saving with reference to minors and insane persons.

To return now to the office of central registry, after an unclosed estate has been carried on its archives for 30 years, without claimant, a judgment of court is entered after due notice declaring the property to belong to the state.

So far as I have been able to have the records searched, upon the evidence furnished no trace of any such estate as that mentioned can be found, and it would seem from the laws to which I have made reference that if any such estate ever existed the rights of claimants have been long since barred by lapse of time.

I have, &c.,

LAMBERT TREE.

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No. 27.

*Mr. Tree to Mr. Bayard.*

No. 156.]

LEGATION OF THE UNITED STATES,  
Brussels, November 1, 1886. (Received November 15.)

SIR: I have the honor to inform you that the largest and most important manifestation in favor of the granting of amnesty to the men engaged in the riots and plundering of last spring, and of universal suffrage, which has yet occurred in Belgium, took place yesterday at Charleroi. Delegations attended from a number of the industrial centers of the Kingdom, and there were 35,000 persons in line. Five hundred women, dressed in mourning, headed the procession, and upwards of 200 red flags waved in its ranks. As the procession moved through the streets of the city the bands played "La Marseillaise," and the participants, at intervals, raised cries of "Vive le suffrage universel! Amnistie!" The "Garde civique" was under arms, but the public order was perfect and the attitude of the people was entirely peaceable. They belonged exclusively to the working class. A deputation presented an address to the burgomaster, demanding amnesty and universal suffrage, who promised to transmit the address to the Government.

There seems to be little doubt that the demand for universal suffrage is gaining ground rapidly, and is becoming so pressing that I should not be surprised to see a proposition looking to the accomplishment of this end brought to the front this winter in Parliament. In that case it is possible that the Government may favor some extension of the privilege, but it is not probable that universal suffrage, pure and simple, will be adopted this year in Belgium. The signs, apparently, all point to its coming eventually, however.

I have, &c.,

LAMBERT TREE.

No. 28.

*Mr. Lambert Tree to Mr. Bayard.*

No. 174.]

LEGATION OF THE UNITED STATES,  
*Brussels, November 27, 1886. (Received December 11.)*

SIR: Referring to my No. 163, I have the honor to inform you that, following the course foreshadowed in the address from the throne at the opening of Parliament with reference to the persons condemned for rioting and pillage at Liege and Charleroi last spring, the King has granted full pardon to 400 of the *condamnés*, while 68 have had their penalties reduced one-half. Two hundred and nine others have obtained partial remissions.

There are still 82 undergoing punishment, who are considered leaders in the lamentable troubles of last spring. These the Government refuses to recommend to the clemency of the King, on the ground that they made an attack on the freedom of labor, in compelling those of their comrades who were disposed to work to stand idle.

After some discussion, the Senate has refused, by an almost unanimous vote, to take into consideration the bill offered by Mr. Croey on the first day of the session for amnesty. It was opposed from the ministerial benches for the alleged reason that it was a total effacement of criminal inculpation; that such a measure implied that the judge who administered justice had wrongly punished those whom he had sentenced, and was dangerous to the Government, which could not afford to be generous, if it had to commence by such an admission.

I have, &c.,

LAMBERT TREE.

# CORRESPONDENCE WITH THE LEGATION OF BELGIUM AT WASHINGTON.

No. 29.

*Mr. de Bounder de Melsbroeck to Mr. Bayard.*

[Translation.]

LEGATION OF BELGIUM,  
*Washington, April 5, 1886.*

MR. SECRETARY OF STATE: I have the honor to have recourse to your excellency's good offices for the purpose of obtaining information as to whether the laws of the United States authorize the prosecution

of persons who are guilty of complicity in cases of desertion from Belgian vessels in the ports of the United States of America.

The acts of complicity to which my Government has reference are, inciting to desertion and the clandestine harboring of a seaman who has deserted, with a view to screening him from justice.

I avail, &c.,

THRE. DE BOUNDER DE MELS BROECK.

No. 30.

*Mr. Bayard to M. de Bounder de Melsbroeck.*

DEPARTMENT OF STATE,  
Washington, June 10, 1886.

SIR: In further reply to your note of April 5 last, asking whether there are laws of the United States which authorize the prosecution of persons who incite seamen to desert from Belgian vessels in the ports of this country, and who clandestinely harbor such seaman after desertion, I have the honor to inform you that I have just received a communication from the Treasury Department, to which your inquiry was referred, inclosing a copy of a letter from the United States shipping commissioner at New York.

From this letter, a copy of which is herewith inclosed, it appears that there are no United States laws punishing those engaged in aiding or abetting desertion from foreign vessels in the ports of this country.

Accept, sir, &c.,

T. F. BAYARD.

[Inclosure.]

*Mr. Reed to Mr. Manning.*

OFFICE OF THE UNITED STATES SHIPPING COMMISSIONER,  
No. 187 CHERRY STREET,  
New York City, April 9, 1886.

SIR: I have to acknowledge the receipt of your letter of the 23d instant, inclosing a copy of a communication addressed to the Secretary of State by the Belgian minister, April 5, 1886, wherein he asks whether the laws of the United States authorize the prosecution of persons who are guilty of complicity in cases of desertion from Belgian vessels in the ports of the United States.

Sections 4079, 4080, 4081, and 5280 of the Revised Statutes prescribe the method of proceeding against deserters from foreign vessels in American ports, but I know of no law of the United States that distinctly authorizes the prosecution of the accomplices in such cases.

Sections 4598 and 4599, as well as 4601 and 4607, of the Revised Statutes, do not seem to authorize such prosecution, in view of the limitations established by section 4612.

Very respectfully, &c.,

JAMES C. REED,  
United States Shipping Commissioner.



## BRAZIL.

No. 31.

*Mr. Bayard to Mr. Jarvis.*

No. 40.]

DEPARTMENT OF STATE,  
Washington, September 6, 1886.

SIR: I now transmit a copy of a letter from this Department to Mr. James C. Jewett, of New York City, written to that individual on the 24th of June last, in response to his communication of April 10, 1886.

With it I hand you a copy of a printed document, being Senate Executive Document No. 133 of the Forty-eighth Congress, first session, relating to the same subject-matter, of a claim by Mr. Jewett on the Government of Brazil.

It is deemed proper that you should be fully apprised of the position taken by this Department in respect to the claim thus put forth by Mr. Jewett against the Government of Brazil, in order to prevent any misconception of the proposed action of this Department in relation thereto, as well as to other claims of a like description.

While this Department is at all times ready to lend the good offices of its representatives abroad for the presentation of all valid claims founded on justice and equity of its citizens upon foreign Governments in accordance with its established regulations, and also to assist in the promotion of American interests in all proper cases and by those methods known and approved internationally, yet it is not unmindful of the concurrent obligation imposed by our professions of amity and comity with other nations, as well as by the injunctions of our own self-respect, upon which we invite those nations confidently to rely, which should secure such previous scrutiny and examination of the law and facts upon which such claims are based by their proponents as shall, *prima facie*, assure both parties of their justice.

The claim of Mr. Jewett, as you will see by my letter to him, had been previously twice adversely reported to the then Secretary of State by the examiner of claims, and these reports approved by the Secretary, who, on March 5, 1881, announced to Mr. Jewett that their further official presentation could not be made by this Government.

The views subsequently expressed by Mr. Blaine, Secretary of State, under a subsequent administration, under dates of August 8, 1881, and December 17, 1881, in his instructions to Mr. Osborne, your predecessor, would seem to be a practical reversal of the opinion and action of his predecessor in office, Mr. Evarts, and are not accepted by me either as to the conclusions of law or fact which they contain.

I fail to discover in the papers submitted any such formal or unequivocal concession to Mr. Jewett by the Government of Brazil as is plainly requisite under the laws of that country to vest in him, as grantee, the right to excavate and use mineral or other natural deposits of phosphate earths which may have been discovered within its territories. But, on the contrary, the prompt and decided refusal of Brazil to make any such concession to Mr. Jewett appears with entire clearness and unmistakable force.

The utmost right that can be urged on behalf of Mr. Jewett would be that in ignorance of the laws of Brazil he had suffered himself to be misled into the formation of sanguine but groundless speculations, which

induced the outlay of some money by him in fitting out two small vessels for the transportation of mineral deposits in advance of a legal concession by the Government of Brazil, which he was notified was essential and requisite, but which he never received.

Such a misconception on the part of Mr. Jewett, if aided by misinformation coming from an official of the Brazilian Government, might have created a basis for an appeal to the benevolence and generosity of that Government, but under no code of laws could be held to constitute a valid claim as of right.

If an application for the favor of Brazil, based upon such a supposed equity, had been made by Mr. Jewett, and for a sum reasonably proportioned to his actual pecuniary outlay, a very different case would have existed in which the personal good offices of the United States minister might have been employed for his assistance.

But the Exhibit T, on page 54 of the accompanying Executive Document No. 133, discloses that the entire alleged expenses incurred by Mr. Jewett, including outfit of his two vessels, in "exploring" for phosphate, counsel fees, agencies charges, and incidentals, were stated by himself at \$27,330.27, and that upon this narrow basis consequential, remote, and highly speculative damages were built up to upwards of fifty millions of dollars, and for a claim so exorbitant the favorable action of this Department was asked as against one of the neighboring Governments of South America, with whom we are on terms of professed amity, and with whom we desire to contract closer and more intimate commercial alliance.

It is my desire that absolute confidence in the honorable friendship of the United States should exist in the minds of all nations, and I know of no better proof that can be given than of an intention to protect them from unjust demands at the hands of our own citizens.

To discriminate against speculative and unjust claims by our citizens upon foreign Governments and in favor of those founded in justice and equity, will cause our recommendations to have that weight which we desire, and create confidence in our international action.

You are instructed to make known the purport of this dispatch to the minister of foreign affairs of Brazil.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 40.]

*Mr. Jewett to Mr. Bayard.*

NEW YORK, April 10, 1886.

SIR: I beg to call your attention to the copy of protest and other papers relating to my rights to certain named deposits discovered by me to Brazil.

Inclosed with these is a package containing the protest made by my agent and self, under date of 8th instant, against the action of Brazil in relation to these deposits, in the advertising same for proposals to remove the phosphates in violation of my rights to same, and my proposal made Brazil for use of these.

I would respectfully request that you cause said protest to be forwarded to the minister plenipotentiary of the United States at Rio Janeiro, to be delivered to the Government of Brazil.

Should you deem this course improper officially, would you do me the favor to forward the envelope containing the protest to our minister at Brazil, to be delivered by him unofficially, or so that he may send it to the proper official of Brazil, without official action on the part of our minister resident there.

The time for the protest to reach Brazil in season to reach that Government before action be taken on the proposals relating to the removal of the mineral phosphate

named is so near at hand—June 3 next—that I beg you will cause the envelope containing the protest to be forwarded to our minister at Rio Janeiro, Brazil, via England, &c., and not detain the same for the next mail from the United States by steamer to Brazil.

My object in making the request is that, if proper, the protest may be effectually presented in my behalf to Brazil; otherwise, it may more surely reach our minister, to be unofficially delivered, if forwarded under the seal of your Department.

I am, &c.,

JAS. C. JEWETT.

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[Inclosure 2 in No. 40.]

*Mr. Jewett to Mr. Jarvis.*

NEW YORK, April 10, 1886.

SIR: With this please find a protest in due form, made by my agent, Nicholas Brandt, and self, both citizens of the United States, against the action of Brazil in relation to the phosphate mineral on the islands of Fernando de Noronha, discovered by me, to Brazil.

Would you do me the favor to cause same to be sent to the proper official of the Brazilian Government immediately after receipt by you?

Yours, &c.,

JAS. C. JEWETT.

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[Inclosure 3 in No. 40.]

*Mr. Bayard to Mr. Jewett.*

DEPARTMENT OF STATE,  
Washington, June 24, 1886.

SIR: There has been unavoidable delay in responding to your letter of the 10th of April last, together with a copy of your written protest to the Government of Brazil, and your letter of the same date to the United States minister to that country, which were received and have been duly considered.

The subject to which your protest and the papers accompanying relate is your alleged discovery of phosphate mineral on the islands of Fernando de Noronha, which are within the sovereignty and jurisdiction of the Brazilian Empire.

Your claim of a right and interest in the control of these deposits of phosphate mineral is not altogether new.

The papers on file and the records of this Department disclose the fact that in the month of February, 1880, you brought your claim against Brazil for your alleged discoveries of these mineral deposits and submitted copies of all the correspondence had by you with the officials of the Brazilian Government which were averred by you to constitute a formal and valid concession by that Government to excavate and remove the mineral deposits in question on terms and conditions therein stated.

It is proper to remark, as part of the history of this case, that on December 15, 1879, a formal notification of the non-existence of any such concession to you and protest against any claim by you against Brazil, as founded thereon, had been received by this Department from Mr. Forreño de Barros, at that time the diplomatic representative of Brazil in the United States, and that being informed of this protest you proceeded to lay your claim and the papers relied upon to sustain it, before this Department.

Thereupon the examiner of claims of the Department made a careful examination of your claim, and on November 3, 1880, submitted a report, accompanied by a full recital of the facts, and his reason for rejecting your demand for diplomatic presentation; and subsequently, on February 9, 1881, he made a second report equally adverse.

Under date of March 5, 1881, Mr. Evarts, then Secretary of State, responding to sundry letters from you, wrote you, reciting the fact that your claim had been made the subject of examination, and repeated adverse reports by the examiner of claims of this Department, and stating that he concurred in the conclusion of the two reports that your claim against Brazil was not of an international character, and could not be further officially prosecuted by this Government.



In the same communication you were also informed that your supposed grant rested upon the action of the Brazilian minister of agriculture for the time being, and that at once, upon the fact of his letters to you of February 3, 1880, becoming known in Brazil, excited jealousy in the popular mind of that country to such an extent that the minister with whom you had corresponded and upon whose letter of February 3, 1880, your supposed grant was based, was compelled to resign.

This official, Mr. Cansanas de Sinimbu was succeeded by a gentleman who was an advocate of a widely different policy, who lost no time in canceling whatever promises or contingent privileges were alleged to have emanated from his predecessor, and official intelligence of this proceeding, by order of the Imperial Government of Brazil, had been communicated to this Department by Mr. Borges, the Brazilian minister at this Capital, under date of October 19, 1880, and also on September 30, 1880, by Mr. Hilliard the United States minister at Brazil.

The language employed in this communication of Mr. Borges was most emphatic, and positively announced the rejection of your claim relative to the deposits of mineral earth in the vicinity of the island of Fernando de Noronha, and the prohibition of the removal of that substance, in regard to which no concession had been granted to you, "save the temporary permission to remove several tons for the purpose of experimenting."

It is true that subsequently the then Secretary of State, Mr. Blaine, under date of August 8, 1881, issued instructions to Mr. Osborn, then United States minister to Brazil, in which he stated:

"I am not sufficiently informed as to the law of Brazil to know how far its formal requirements as to the mere question of right and title would nullify this action by its Government, but I do know that in justice and in equity a responsibility has been incurred which cannot be escaped."

This view of the case was contrary to that twice reported to Mr. Evarts, when Secretary of State, by the examiner of claims, and by that Secretary of State concurred in, as announced to you in his letter of March 5, 1881, and although reaffirmed by Mr. Blaine in his dispatch to Mr. Osborn, of December 7, 1881, written at the request of S. B. Elkins, esq., your attorney, is not accepted or approved by me.

My immediate predecessor, Mr. Frelinghuysen, does not appear to have acted in the line of Mr. Blaine's recommendations or instructions to Mr. Osborn, and there is no indication of further proceedings on the files of this Department until your communication to me of April 10, 1886, was received.

The purport of your letter is to request that your formal protest against the action of the Government of Brazil in advertising for proposals to remove phosphates—the property of Brazil—may be presented through the minister of the United States resident there, and your further request that your protest may be delivered unofficially, in case I should deem it improper to order its presentation as by direction of this Government.

With every desire to protect the interest and promote the just claims of American citizens in foreign lands, I do not feel justified in lending the countenance or aid of the United States officials to such demands as are set forth in your statement of claims against the Government of Brazil, and which I find described as Exhibit T, accompanying your memorial, dated June 13, 1881, to this Department, and which was one of the inclosures of Mr. Blaine's despatch of December 17, 1881, to Mr. Osborn.

This claim is asserted for the enormous sum of \$50,525,000, and when its alleged basis is examined in the *ex parte* statements, affidavits, and letters presented by you and on your behalf, the disproportion between any possible loss incurred by you and the amount claimed by you from Brazil is enormous. Such a claim so stated shocks the moral sense, and cannot be held to be within the domain of reason or justice.

It would be an act of international unfriendliness for the United States to lend themselves in any way or to any degree in urging, much less enforcing, such a demand upon a country with whom they are or desire to remain on terms of amity.

Propositions have been made and are pending in the legislative branch to invite the South American Governments and people to enter into closer ties of commercial and political intercourse with us, but to connect our Government, even remotely or unofficially, with the favorable presentation or demand of such a claim as this of yours would be utterly inconsistent with professions of amity or the desire to promote closer commercial relations.

I therefore return the protest as inclosed by you, and decline to transmit it to the United States minister at Brazil, or to instruct him to present it officially or otherwise.

I am, &c.,

T. F. BAYARD.



No. 32.

*Mr. Trail to Mr. Bayard.*

[Extract.]

No. 65.]

LEGATION OF THE UNITED STATES,

*Rio de Janeiro, November 29, 1886. (Received December 28.)*

SIR: Referring to your instruction No. 40, of September 6, 1886, to Mr. Jarvis, I have the honor to inclose herewith a translation of a note of Baron de Cotegipe, Brazilian minister of foreign affairs, with reference to the claim of James C. Jewett.

I have, &amp;c.,

CHARLES B. TRAIL.

[Inclosure in No. 65.—Translation.]

*Baron de Cotegipe to Mr. Trail.*

RIO DE JANEIRO, MINISTRY OF FOREIGN AFFAIRS,

*November 12, 1886.*

SIR: I have the honor to acknowledge the receipt of the note of the 3d instant, in which the minister, Mr. Thomas J. Jarvis, informs me of the instructions which his Government sends him in respect to the claim which was made some years ago against Brazil by James C. Jewett, a citizen of the United States, in the sum of \$50,000,000.

In perfect accord with the tenor of these instructions that I read with the greatest interest, it becomes me to declare to Mr. Charles B. Trail, United States chargé d'affaires *ad interim*, that nothing could be more pleasing to the Imperial Government than to see how much the Government of the said States is animated by feelings of cordial friendship for this Empire, and earnestly desires to avail itself of all occasions when it can show its desire to maintain unbroken the relations of good understanding and mutual confidence that have always existed between the two countries.

Relative to the manner in which the Secretary of State expresses himself upon the entire absence of a legal basis (*improcedencia*) in the claim that Mr. Jewett sought to revive, notwithstanding a final judgment had been rendered against him by the competent Brazilian authorities, it was nothing less than what was to be expected from the spirit of justice and impartiality that has characterized so much on other occasions the department of which his excellency has charge.

In the name of the Imperial Government, then, I request that Mr. Trail will transmit to the Secretary of State the most feeling (*sentidas*) expressions of thankfulness for the important and grateful communication that I have just received, and will assure his excellency that the same Government on its part will vie with all its strength to always correspond to sentiments so valuable.

I will not fail to inform the ministry of agriculture, commerce, and public works of the happy and definite solution arrived at from the aforesaid note of Mr. Jarvis.

I approve with pleasure the occasion to reiterate to Mr. Trail the assurances of my very distinct consideration.

B. DE COTEGIPE.

## CENTRAL AMERICA.

No. 33.

*Mr. Hall to Mr. Bayard.*

No. 433.] UNITED STATES LEGATION IN CENTRAL AMERICA,

*Guatemala, October 17, 1885. (Received November 9.)*

SIR: With reference to my dispatch, No. 404, relating to the mission of General Zavala, of Nicaragua, to Guatemala, I have the honor to inclose a copy and translation of his communication, dated the 24th ultimo,

in which he reports its satisfactory termination and a settlement of all pending differences between the two Governments.

The most important result of the mission, now that all apprehensions of trouble with Guatemala and Salvador have ceased, is the raising of the state of siege, which has existed in Nicaragua since the promulgation of Barrios's union proclamation in March last, and a general amnesty to all Nicaraguans who have been convicted or accused of political offenses. I inclose a copy and translation of the decree. It bears the same date as General Zavala's communication.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 433.—Translation from the *Gaceta Oficial* of Nicaragua, September 26, 1886.]

DEPARTMENT OF GOVERNMENT AND JUSTICE.

*Decree raising the state of siege and conceding an amnesty.*

The Government, considering that the causes which gave rise to the decree of the 11th March last have ceased to exist; that the Republic is at peace with the other Republics of Central America, and, in view of these circumstances, wishing to concede a pardon to those who may have been imprisoned or expatriated for political offenses, and having heard the opinion of the council of ministers, decrees:

(1) On and after the 1st of October next the state of siege shall be raised, and in consequence thereof constitutional order shall be re-established.

(2) A complete, ample, and unconditional amnesty is granted to all those Nicaraguans who are expatriated or imprisoned for political offenses.

Given in Managua the 24th of September, 1885.

ADAN CARDENAS.

TEODORO DELGADILLO,  
*Minister of Government and Justice.*

FRANCISCO CASTELLON,  
*Minister for Foreign Affairs and Public Instruction.*

JOSE CHAMORRO,  
*Minister of Public Works.*

JOAQUIN ELIZONDO,  
*Minister of Finance, War, and Marine.*

[Inclosure 2 in No. 433.—Translation from the *Gaceta Oficial* of Nicaragua, September 26, 1885.]

*General Zavala to Señor Castellon.*

General Zavala's report of his mission as minister of Nicaragua to Guatemala in August, 1885.

MANAGUA, September 24, 1885.

MR. MINISTER: In compliance with the high mission with which the Supreme Government honored me, accrediting me as envoy extraordinary and minister plenipotentiary near the Government of Guatemala, I arrived in that Republic in the beginning of August, and was the object, from my landing at the port of San José, of the consideration due to the representative of a friendly and sister nation.

On the 19th of the same month I was received officially with the customary ceremonies, and I have the honor to accompany copies of the discourses exchanged on that occasion.

During my short stay in Guatemala some of the organs of the press, and of a certain political tendency, attacked the Government of Nicaragua harshly, and at the same time slandering President Cardenas. I deemed it my duty to reply to these attacks and to repel the calumny against the President, as you will notice in the newspapers which I inclose, and to request of the Government of Guatemala the prosecution of the libeler and supplanter of signatures. The minister of relations, in his note of the 29th of August, in reply to my request, offered to proceed by all legal means against the author or authors of the calumny.

I have the satisfaction of informing you that the Government and the society of Guatemala in general decidedly condemned these publications, as may be seen in the note of Señor Ramirez of the 29th August, above mentioned, and in the newspapers to which I have referred.

After several conferences with President Barillas and Señor Manuel Ramirez, minister for foreign affairs, the protocol, the original of which I have the honor to remit to you, was signed. In it you will observe that the relations between Nicaragua and Guatemala have been re-established on the most cordial and friendly terms. President Barillas made me the most frank and explicit manifestations of his sentiments in behalf of the peace of Central America. His sound political sense and his lively interest in the progress of Guatemala are undoubtedly a guarantee of tranquillity for these Republics.

Through the friendly initiative of Mr. Henry C. Hall, the United States minister, I signed a protocol with the minister of Germany and the chargés d'affaires of France and Italy to terminate the disagreeable incident which took place in consequence of the communication which those representatives addressed to the Government of Guatemala in reply to the circular note in which the latter announced to them the proclamation of the union of Central America.

I have the honor to remit to you the original protocol.

The secretaries of legation Espinosa and Cuadra, will place in your hands all the papers relating to the legation to Guatemala.

If the slight services it has just rendered should contribute in any way to the welfare of Nicaragua I shall be highly satisfied.

\* \* \* \* \*

JOAQUIM ZAVALA.

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*Señor Castellon to General Zavala.*

DEPARTMENT OF FOREIGN AFFAIRS,  
Managua, September 25, 1885.

MR. MINISTER: I have had the honor to receive the communication in which you give an account of your acts as envoy extraordinary and minister plenipotentiary of Nicaragua near the Government of Guatemala, during the recent mission confided to you.

Your communication has impressed the President, to whom I referred it, with lively interest and he has instructed me to manifest to you his great gratification that you were the object of marked consideration and esteem from the time of your arrival, and for the laudable zeal and patriotism you displayed in placing upon lasting bases the good relations which both parties desire to maintain for the good of these peoples who have been so sorely afflicted of late by political conflicts and troubles.

The Government unreservedly approves all of your acts exercised in the discharge of your important mission, and through my medium renders you its sincere thanks for the services through which you have acquired new titles to the national gratitude.

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F. CASTELLON.

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No. 34.

*Mr. Hall to Mr. Bayard.*

441.] UNITED STATES LEGATION IN CENTRAL AMERICA,  
Guatemala, November 4, 1885. (Received November 29.)

SIR: \* \* \* I have the honor to inform you that on the 29th ultimo I received a telegram from Mr. Leavitt, our consul at Managua, stating that President Cardenas had gained positive information that two vessels, with troops and arms, were in the Gulf of Fonseca preparing to invade Nicaragua. This report was confirmed the next day by a telegram from Honduras. \* \* \* I have since learned that the expedition effected a landing in Nicaraguan territory, and is now in the department of Chinandega; that Nicaragua is again under martial law, but that thus

far there had been no general uprising in the country in favor of the revolution, as the invaders expected. There is little doubt, however, that unless the Government should succeed in suppressing the movement promptly, the country will have entered into a long period of convulsion and bloodshed.

I have, &c.,

HENRY C. HALL.

No. 35.

*Mr. Hall to Mr. Bayard.*

No. 444.] UNITED STATES LEGATION IN CENTRAL AMERICA,  
Guatemala, November 11, 1885. (Received December 4.)

SIR: In my dispatch No. 441, of the 4th instant, I reported to you that a hostile expedition to invade and revolutionize Nicaragua had already landed in the territory of that state. I have now to inform you that I have received telegrams from the minister for foreign affairs of Honduras and President Cardenas, of Nicaragua, announcing the complete defeat of the invaders and their retreat into Honduras, where they were disarmed by order of the Government and sent to Tegucigalpa. \* \* \*

Yesterday I telegraphed you the following:

The minister for foreign affairs of Honduras telegraphs the expedition against the Government of Nicaragua has been defeated; invaders have been forced to take refuge in Honduras.

I have, &c.,

HENRY C. HALL.

No. 36.

*Mr. Bayard to Mr. Pringle.*

No. 305.] DEPARTMENT OF STATE,  
Washington, November 18, 1885.

SIR: I have received Mr. Hall's confidential dispatch No. 404, of August 31 last, announcing that ex-President Zavala, of Nicaragua, had accomplished the object of his recent visit to Guatemala, and that the amicable relations between those two sister Republics, which the decree of the late President Barrios, of February 28 last, had temporarily interrupted, had been re-established.

The President directs me to say that he has been much gratified at this intelligence, and to express his willingness to permit our representatives in Central America to use their influence to that end when it can be done with full recognition of the sovereign rights of those states. He hopes, also, as do the people of the United States, that not only may there be between the Central American Republics the most perfect, cordial, and friendly understanding, but that the fullest measure of success may be realized through their combined peaceful endeavors, and a new era of prosperity be vouchsafed unto them.

I am, &c.,

T. F. BAYARD.



No. 37.

*Mr. Pringle to Mr. Bayard.*

No. 454.] UNITED STATES LEGATION IN CENTRAL AMERICA,  
*Guatemala, December 6, 1885. (Received January 4, 1886.)*

SIR: I beg to report that the elections passed off quietly, and General Manuel Barillas has been elected constitutional President, and Vicente Castaneda Vice-President of the Republic of Guatemala.

The official announcement does not take place until Congress meets next August.

I also inclose a decree of General Menendez, President of Salvador, relative to the dissolution of the Assembly, and also the decree in which he declares the country under martial law.

I have, &c.,

D. LYNCH PRINGLE,  
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 454.—Translation.]

*Decree of General Menendez, President of Salvador.*

Francisco Menendez, general of division and provisional President of the Republic of Salvador, considering:

(1) That ever since the first session of the constitutional Congress there has been noticed a spirit of division amongst the members composing it, a departing each day further and further from that patriotism with which it should be inspired, so as to establish the institutions which must consolidate that real liberty, peace, and public order to which all Salvadorians legitimately aspire.

(2) That notwithstanding the notorious designs of leaving an inadequate constitution, and not only a palpable but aggressive resistance to the reforms indicated by the executive power, the latter has reached the extreme of its prudence and tolerating spirit, abstaining from having recourse to those violent measures demanded by the public sentiment, from the desire to evade for the Republic a scandal and the evils attendant upon an abnormal situation of the country, as well as from the hope that it would have succeeded in causing the opposition circle to relax in their mournful endeavors to provoke difficulties and disturbances.

(3) That the moderation of this conduct is almost interpreted as weakness on the part of the Government, and that, far from diverging from their intentions, which are hostile towards it and which are tending to denaturalize the glorious programme of the revolution, it appears better to have given them more strength of mind and greater audacity to bring into play their machinations, an overestimating and abusing of the unlimited liberty and the guarantees which this same Government has vouchsafed them.

(4) That from this cause the dissenters, against the actual dictates and against a good and liberal constitution, have engendered in the Republic an anomalous, unsustained situation, the uneasiness sequential to a public lack of confidence and the in tranquillity among the citizens, which is the unavoidable result of the endless expectation of a revolutionized state of politics.

(5) That of late the spirit of discord has manifested itself by events which have taken place in the excited session of to-day, in which a considerable number of members of the assembly, not wishing to become the plaything nor the ridicule of the opposition party, violently abandoned their seats, with protests that they would never return to occupy them, this action causing Congress to be spontaneously dissolved.

(6) That the first and principal duty of the Government is to maintain sacredly the principles of authority and of public order, and it would not be compatible to the fulfillment of this duty were it to forsake the great social and political interests which are intrusted to it by going so far as to countenance with criminal indifference, thereby compromising its own dignity, the disorder caused in the very body of Congress itself, which threatens the public peace and the free and republican practices of the people of Salvador, whose guardian and defender it is.

DECREE.

FIRST AND ONLY ARTICLE. It is hereby declared that in consequence of the spontaneous dissolution of the constitutive Congress without fulfilling its high mission,

notwithstanding that it had been organized for two months, the dictatorship in which the provisory government is invested by the will of the people shall remain in vigor until such time as the passions shall have become calmed and the Republic shall be at peace, when appropriate measures will be taken.

Given in San Salvador, 26th of November, 1885.

FRANCISCO MENENDEZ.

CRUZ ULLOA.

RAFAEL MEZA.

ESTANISLAO PEREZ.

Z. GALDIAMEZ.

HIGINIO VALDIVIESO.

[Inclosure 2 in No. 454—Translation.]

DECREE OF GENERAL MENENDEZ, PRESIDENT OF SALVADOR.

Francisco Menendez, general of division and provisional President of the Republic of Salvador, considering—

(1) That the scandalous dissolution of the constitutional Assembly might give rise to new disorders, which the Government must avoid in time and repress in a prompt and energetic manner;

(2) That however painful, and even repugnant, it may be to appeal to measures of a grave character, it is necessary to do so in extreme cases, in order to preserve public order and when the tenacity and obstinacy of those who try to destroy the principles of authority, without whose shelter liberty is an empty word;

By virtue of all the authority with which I am invested,

DECREE.

ARTICLE 1 declares to be re-established in full force the state of siege under which the Republic has been maintained already a situation which the same national Congress dissolved to-day of its own accord brought about and determined to maintain.

ART. 2. This decree shall take effect from this date.

Given in San Salvador 27th of November, 1885.

FRANCISCO MENENDEZ.

CRUZ ULLOA.

No. 38.

*Mr. Bayard to Mr. Hall.*

No. 325.]

DEPARTMENT OF STATE,

*Washington, February 6, 1886.*

SIR: I transmit, for your information, copies of the correspondence exchanged between Mr. Jacob Baiz, consul-general of Honduras at New York, and this Department touching the movements of the American steamer City of Mexico outside of the jurisdiction of the United States. It will be seen from the letters of Mr. Baiz that he labors under the impression that to prevent a violation of our neutrality laws this Government should instruct its vessels of war to keep a watch on the City of Mexico, having as is alleged, an unlawful purpose against the peace of Honduras.

I have not thought it necessary to discuss the subject with Mr. Baiz. I have therefore confined myself to the statement that the acts complained of were committed, if at all, against the sovereign neutrality of Great Britain and should be dealt with according to British law, and that this Government had already given abundant proof of its desire to prevent any violation of its neutrality within the jurisdiction of the United States.

With these prefatory remarks it appears not inappropriate to add a few general observations upon the subject.

It is usual, when application is made to this Department to take action to prevent what are supposed to be impending breaches of neutrality, to base such application on affidavits, or on statements of proof susceptible of being reduced to affidavits, on which the interposition of the Department is asked. This requisite has not been insisted upon in the present instance; for, supposing the case presented by the letter of Mr. Baiz to be fully verified, it is not one on which any present action of the Department could be based.

Breaches of neutrality may be viewed by this Government in two aspects: First, in relation to our particular statutes; and, secondly, in respect of the general principles of international law. Our own statutes bind only our own Government and citizens. If they impose on us a larger duty than is imposed on us by international law, they do not correspondingly enlarge our duties to foreign nations, nor do they abridge our duties if they establish for our municipal regulation a standard less stringent than that established by international law.

The complaint that Mr. Baiz makes is, that the steamship *City of Mexico*, a passenger and freight vessel, claimed to be entitled to carry the flag of the United States, took on board at Belize, January 12 last, when on her ordinary coasting route, some political refugees, who it is supposed were meditating hostile action against the Government of Honduras.

It will scarcely be contended that an act such as this, even supposing it would be regarded as a breach of neutrality if committed within the jurisdiction of the United States, can be imputed to the United States when committed in a foreign port; nor can it be justly urged that, because the vessel in question sails under the flag of the United States, it is the duty of this Government to send cruisers to watch her to prevent her from committing breaches of neutrality when on her passage from one foreign port to another. For this Government to send armed vessels to such ports to control the actions of the *City of Mexico* would be to invade the territorial waters of a foreign sovereign. For this Government to watch its merchant and passenger vessels on the high seas, to stop them if they carry contraband articles or passengers meditating a breach of neutrality, would impose on the United States a burden which would be in itself intolerable, which no other nation has undertaken to carry, and which the law of nations does not impose.

In what has been stated I have referred exclusively to the international obligations imposed on the United States by the general principles of international law, which are the only standards measuring our duty to the Government of Honduras. Whether the *City of Mexico*, when she returns to her home port, or those concerned in her or in this particular voyage, may be subject to adverse procedure under our neutrality statutes, I have not deemed it necessary here to discuss or decide.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 325.]

*Mr. Baiz to Mr. Bayard.*

No. 231.] CONSULATE-GENERAL REPUBLIC OF HONDURAS IN NEW YORK,  
New York, December 24, 1885. (Received December 26.)

MOST EXCELLENT SIR: In the name of the Republic of Honduras, and as its representative, I have the honor to address your excellency, for the purpose of making known to you all the events and antecedents of the warlike expedition which, ever



since the month of May last, it has been attempted, and is still being attempted, to send against the Republic which I represent. I do this for the double purpose of condensing the facts, and of begging this Government to furnish all possible aid, or such as, in view of the friendly relations existing between the two countries, it may be thought proper to grant, owing to the circumstance that the plans have been formed and the expedition set on foot in this port.

In the first place, the steamer Dorian sailed from New York on the 29th of May last for Bluefields, in Nicaragua, having on board a cargo consisting of the following articles: Fifty boxes of rifles and bayonets, one box containing a drum, ten boxes of carbines, one box of cornets, one box of sabers and belts, four boxes of cutlasses and scabbards, twenty boxes of knapsacks, three boxes of horse trappings, one box of tools, one box of bags, eight boxes of hardware, four boxes of shirts, six hundred and ten boxes of cartridges, three boxes of percussion-caps, and eighty-eight half barrels of flour. With this cargo she sailed, not for the port of Bluefields, for which she had been cleared, but for the Republic of Honduras, where she was to discharge her cargo. Owing to unfavorable circumstances, however, she found it impossible to accomplish her purpose, and returned with the aforesaid effects to the port of New York early in July last.

The vessel was cleared for that voyage by the firm of A. D. Straus & Co.

Toward the close of the aforesaid month of July I was privately informed that the firm of A. D. Straus & Co. had purchased the steamer City of Mexico, for the purpose of sending her to the northern coast of the Republic of Honduras with a revolutionary expedition. This furnished additional evidence of the object of the expedition which had sailed on board the Dorian, and, as will be seen, the news was subsequently confirmed, since the steamer was for a long time at the wharves in New York, and the detectives whom I had employed to keep watch told me of mysterious persons who visited her.

Early in September I was informed that, as it had been found impossible to organize the projected expedition, and as the purchasers had not yet paid for the steamer City of Mexico, that vessel was about to be sold at public auction, and the result was that the said steamer was, early in October, reincorporated into the Alexandria Line, to which she had previously belonged, and was cleared by said company for a regular trip to Mexico.

In the latter part of October the Government of Honduras telegraphed to me to keep a watch on General Deigadd, Colonel Morey, Mr. Ayestas, and a few other persons, who had then recently arrived in New York for the purpose, as was said, of promoting a revolution. In consequence of this order of my Government I employed detectives, from whom I learned that the aforesaid persons, under the leadership of Don Marco A. Soto, were really forming plans to get up another expedition against that Republic; and early in the present month I learned that the firm of A. D. Straus & Co. was again in treaty for the purchase of the steamer City of Mexico, and that it was intended to fit her out once more for a new expedition. I therefore redoubled my vigilance, and learned that the ownership of the said steamer had really been transferred to a Mr. Hollander, who was simply an agent for Messrs. A. D. Straus & Co., who were getting the steamer ready for a voyage. I afterwards found that the cargo which had been brought back by the steamer Dorian, and which was then in Board's storehouses in Brooklyn, was to be put on board of the City of Mexico, together with some small pieces of artillery and two steam-launches, and that an effort was being made to recruit two hundred men, who were ostensibly to be sent to work in the mines of Honduras, where they were to have constant employment.

This being the case, it seemed to me that the time had come when it was proper for me to take some official steps to prevent the now possible and even probable expedition from being successful through aid afforded it by the United States. I consequently addressed the New York custom-house authorities, requesting them, in virtue of the laws which prohibit the organization of such expeditions against friendly nations, to prevent the departure of that vessel. While things were in this condition I called on your excellency, in company with the minister of finance of the Republic of Honduras, who happened to be here at the time, and we gave your excellency an account of all that was going on. This had a good effect, and the expedition was apparently broken up in consequence.

It now appears, according to recent investigations made by me, that the steamer City of Mexico sailed for Progreso, Mexico, with a cargo of merchandise, and that the munitions of war above referred to, which were to be taken by the City of Mexico, have been taken by the steamer Andes, which is bound to Jamaica, and I am assured that this has been done in order that the steamer City of Mexico, on her return trip, may touch at Jamaica and there take those munitions on board, thence proceeding to her original place of destination.

For this reason I again address your excellency, begging you, if it is your desire and in your power once more to do something to prevent this expedition from reaching its destination, to do so, either by making representations to the authorities of



the Island of Jamaica, or by causing the American vessels of war now stationed in the waters of the Antilles and Central America to be instructed to watch the said steamer. I ask this in view of the fact that the munitions in question left a port of the United States and in consideration of the friendly relations existing between our two countries.

To this effect I have addressed the consular representatives of Great Britain and Mexico, asking them to use their good offices in Jamaica and at Progreso, and I have had the satisfaction to receive such replies from them as were to be expected from the representatives of nations which are on friendly terms with the Republic of Honduras.

I hope that the action taken by your excellency will likewise be favorable, and that you will issue suitable orders in the case, using your influence, as far as possible, to prevent the expedition in question from being successful. This, I trust, that you will do, to prevent the tranquillity of the country which I represent from being disturbed, and to forestall, as a humanitarian act, the effusion of blood which will naturally take place if the success of the expedition can in nowise be frustrated.

In the name of my Government I have the honor to express to you my deepest gratitude for the assistance which I have received from the customs authorities in New York, and I desire to express the same in advance for anything that you may be pleased to do in compliance with the request which I take the liberty to address to you by this communication, all of which I shall report in detail to my Government.

I have, &c.,

JACOB BAIZ.

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[Inclosure 2 in No. 325.]

*Mr. Bayard to Mr. Baiz.*

DEPARTMENT OF STATE,  
Washington, January 7, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo relative to alleged revolutionary attempts which have been made, and are still being made, by certain individuals against the peace of Honduras. A copy of your letter has been given to the Attorney-General and the Secretary of the Treasury for their information.

I am, &c.,

T. F. BAYARD.

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[Inclosure 3 in No. 325.]

*Mr. Bayard to Mr. Baiz.*

DEPARTMENT OF STATE,  
Washington, January 12, 1886.

SIR: In connection with my letter to you of the 7th instant, I have now to apprise you of the receipt of a communication from the Acting Secretary of the Treasury, of the 9th instant, saying that his Department will use all legal endeavors, through its collectors of customs, to prevent any violation of the neutrality laws on the part of any individuals against the Republic of Honduras.

I am, &c.,

T. F. BAYARD.

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[Inclosure 4 in No. 325.]

*Mr. Baiz to Mr. Bayard.*

CONSULATE-GENERAL OF HONDURAS  
IN THE UNITED STATES OF AMERICA,  
New York, January 18, 1886. (Received January 19.)

SIR: I have the honor of owning the receipt of the communications of your excellency, dated 7th and 12th instant, and in reply beg to tender best thanks, in the name of my Government, for the efficient measures adopted towards preventing a violation of the neutrality laws on the part of any individuals against the Republic of Honduras, which I have the honor of representing.

I shall consider it my duty to inform your excellency of any new occurrences that may transpire, regarding the revolutionary movements in question, and remain, &c.

JACOB BAIZ,  
Consul-General.

[Inclosure, 5 in No. 325.]

*Mr. Baiz to Mr. Bayard.*

No. 248.]

CONSULATE-GENERAL OF HONDURAS  
IN THE UNITED STATES OF AMERICA,  
*New York, January 26, 1886. (Received January 27.)*

SIR: I have the honor of confirming my note to your excellency of 18th instant, and now beg leave to inclose a clipping from the New York Times of this date, relative to the movements of the American steamer City of Mexico, since she left this port last month.

Your excellency will observe that the revolutionary purpose for which said steamer was intended, and which was frustrated here, as explained in my communication to your excellency of 24th of December last, is apparently being carried out now, and consequently I beg leave to reiterate my request, contained in my stated note, that orders be transmitted to the United States war vessels stationed in those waters to watch the steamer City of Mexico, and prevent her from perpetuating any hostile acts against the Republic of Honduras, said steamer having left this port ostensibly for that purpose.

In behalf of the Government of Honduras that I have the honor of representing, I beg to anticipate my thanks to your excellency for whatever measures the United States Government may deem convenient to adopt in this matter, and remain, &c.,

JACOB BAIZ,  
*Consul-General.*

[Inclosure 6 in No. 325.—Extract from the New York Times of January 26, 1886.]

## WRECKED ON THE HONDURAS COAST.

NEW ORLEANS, LA., *January 25.*

The steamship City of Dallas, Captain Read, from Puerto to Cortez, via Livingston and Belize, Honduras, with a cargo of tropical products, arrived this noon. She reports that the heavy norther which prevailed on the coast of Honduras on the 8th instant destroyed thousands of banana plants and drove ashore many small coasting vessels, among which were the Mississippi and Cold Stream, belonging to the American Fruit Company at Tela. The American steamship City of Mexico, from New York, touched at Belize on the 12th instant and took on board a number of political refugees from the Spanish American republics, and sailed to the eastward. The report of the arrival of the City of Mexico, with a filibustering crew, alarmed the people on the coasts of Guatemala and Honduras, and caused a general suspension of business, the banana negro laborers and the mahogany wood-cutters fleeing to the bush to avoid being pressed into military service.

[Inclosure 7 in No. 325.]

*Mr. Baiz to Mr. Bayard.*

No. 249.]

CONSULATE-GENERAL OF HONDURAS  
IN THE UNITED STATES OF AMERICA,  
*New York, January 28, 1886. (Received January 29.)*

SIR: In confirmation of what I had the honor of reporting to your excellency in my communication of 26th instant, relative to the American steamer City of Mexico, I now beg to transmit, for the information of your excellency, the following extract from a letter of the commander of Puerto Cortes, Republic of Honduras, dated 18th instant, and which I received to-day. It says thus:

"City of Mexico arrived on 10th instant at Belize, and sailed on 12th for Bluefields. Delgado, Morey, and twenty-odd more filibusters on board. She is said to go from Bluefields to Kingston for arms. I am sorry they did not come here; should have given them a hot reception. If they come again, and I get sure information where they are, I shall start with 100 men for them. We want to stop this; the effect on business is very bad, though they cannot do any harm. We are everywhere prepared for them."

The foregoing, which I submit for the consideration of your excellency, confirms the former reports regarding the hostile intentions of the American steamer City of Mexico, and in behalf of my Government I respectfully solicit that your excellency

adopt such measures as may prevent the consummation of hostile acts against the Republic of Honduras by a vessel under the United States flag.

Anticipating my thanks to your excellency for kind attention to the matter at issue, I am, &c.,

JACOB BAIZ,  
*Consul-General.*

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[Inclosure 8 in No. 325.]

*Mr. Bayard to Mr. Baiz.*

DEPARTMENT OF STATE,  
*Washington, February 5, 1886.*

SIR: I have to acknowledge the receipt of the several communications which, in the absence of the diplomatic representative of Honduras, you have addressed to me under date of the 26th and 28th instant, relative to the movements of the steamer City of Mexico in the waters of Belize and Honduras.

It appears from your statements that the acts of which your Government complains were effected while the City of Mexico was within the jurisdiction of Great Britain.

It is said that the City of Mexico took on board, at Belize, certain persons hostile to Honduras, and carried them to Honduran territory. It is immaterial to consider whether this act was a fitting out of a hostile expedition, for, even assuming it to have been such, the offense would be against the sovereign neutrality of Great Britain, to be dealt with by British law, and not punished by the armed hand of the United States.

I have no desire to prejudice any judicial resort which may be sought, should the City of Mexico or the persons carried by her come hereafter within the jurisdiction of the United States. I desire merely to establish the principle that this Government is under no obligation to follow the vessels rightfully bearing its flag into the ports of any foreign country there to enforce the laws of such country with respect to neutrality.

Of its determination to enforce the laws of the United States within the jurisdiction of the United States, to prevent the fitting out and departure of armed force against the peace of our neighbors, this Government has given abundant proof.

I am, &c.,

T. F. BAYARD.

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No. 39.

*Mr. Bayard to Mr. Hall.*

No. 329.]

DEPARTMENT OF STATE,  
*Washington, February 20, 1886.*

SIR: I inclose, for your information, a copy of a letter from Mr. Fernando C. Valentine, consul-general of Guatemala at New York, dated the 13th instant, touching the alleged violations of the United States neutrality statutes by the enemies of Honduras and Salvador, and asking the assurances of this Government, conjointly with those of Guatemala, to insure the peace of the Central American Republics. I add also my letter, in reply, of the 19th instant, declining to give such assurances, but saying, at the same time, that no effort would be spared in case of proper application by any one of those states to prevent and punish any violation of our neutrality acts.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 329.]

*Mr. Valentine to Mr. Bayard.*

CONSULATE-GENERAL OF GUATEMALA, 345 PRODUCE EXCHANGE,  
*New York, February 13, 1886. (Received February 15.)*

SIR: I have the honor to translate the following letter I have just received from Guatemala, which I believe to be of sufficient international interest to warrant my calling your attention to it, demonstrating as it does the marked amity that exists



between the Central American Republics, and clearly evincing that such North American interests as are vested in the Republics of Central America are by no means menaced by such filibustering projects as have recently been discussed by the press of the United States, and further showing that if ever a project of any noteworthy dimensions should be put on foot to overthrow either of the Governments mentioned, they would be staunchly met by the combined forces of the interested Governments, who are determining to preserve peace at all hazards. I communicate the subjoined letter to you with a view that you may, if you deem proper, make public my assurance that those who have interests of any kind in Central America need cherish no fears as to their safety; and, further, I would remind all that the dissemination of rumors of war, which I assure you are but rumors, will by no means act as a remedy for the fact that still six-sevenths of the trade of Central America is done with Europe, whose merchants are not at all alarmed by what might prove an impediment to the increase of the trade of the United States, if such assurances did not exist as are portrayed by the following letter :

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS,  
*Guatemala, January 13, 1886.*

Doctor FERNANDO C. VALENTINE,  
*Consul-General of Guatemala in New York :*

It has come to the knowledge of this Government that some persons residing in New York City are endeavoring to send filibustering expeditions intended to disturb the peace and order of the Republics of Honduras and Salvador.

Inasmuch as the perpetuation of peace in Central America particularly interests Guatemala, and actuated by a desire to preserve the sister Republics from any disturbance, the President commissions me to charge you to employ all of your zeal and activity in the discovery of such steps as are taken in the United States to the above ends, and that you do all in your power to impede the said expeditions, and that you will take the same interest in these matters as if they concerned this Republic (of Guatemala) exclusively.

You will inform me by cable of any matter that you may deem important in this connection.

\* \* \* \* \*

I am, &c.,

ANTONIO LOZO ARRIAGA.

In view of the foregoing facts that are borne out by the above letter, and in evidence of the friendship of the United States of North America towards the Republic of Guatemala, do you authorize me to cable my Government as follows :

"Secretary State this Government assures me that its assistance is at our command to prevent expeditions against Central America, should any arise."

While Guatemala has no fear of such expeditions as have recently been mentioned, and while the letter I have transmitted expresses only a desire for positive information, the cablegram above suggested will counteract the unfavorable impression that cannot fail to be created in Central America by some of the matter that has recently been published in papers that will shortly reach our countries, and the context of that matter may, I fear, produce in the minds of many a misapprehension of the feelings of the Government of the United States towards Central America, inasmuch as several of the reports make it appear that your Government allows filibustering expeditions to be equipped and armed undisturbedly against friendly nations. The cablegram I suggest will at once annul any such erroneous conceptions.

Assuring you, sir, that the Government of Guatemala, under the Presidency of General Manuel Lisandro Barillas, cherishes the most profound respect for its great sister, the United States of America,

I have, &c.,

FERNANDO C. VALENTINE,  
*Consul-General of Guatemala.*

[Inclosure 2 in No. 329.]

*Mr. Bayard to Mr. Valentine.*

DEPARTMENT OF STATE,  
*Washington, February 19, 1886.*

SIR : I have received your letter of the 13th instant transcribing a note addressed to yourself by the minister for foreign affairs of Guatemala, wherein he apprehends that filibustering expeditions are about to be dispatched from New York against the peace



of Honduras and Salvador. You thereupon ask to be authorized to cable your Government that you have received the assurances of the United States that its assistance is at the command of Guatemala to prevent expeditions against Central America should any arise.

Although the Government of the United States has given heretofore abundant proof of its determination to uphold its neutrality statutes in respect to the Governments of Central America, as well as in respect to all other Governments which may be involved in wars, domestic or foreign, I am unable to comply with your wishes as expressed. Violation of our neutrality statutes is an offense against the domestic sovereignty of the United States and is to be punished on competent proof that the wrong complained of was done contrary to our laws and within their jurisdiction.

This Government is disposed to take every possible means within the power of the United States to prevent hostile attempts being set on foot within their jurisdiction against the peace of the Republic of Guatemala, should occasion arise. The same is also true as regards either of the other Central American states. But to give assurance that the power of this Government will be allied with that of Guatemala to prevent alleged violations of our neutrality against the peace of the other Central American Republics is a step which this Government cannot take. In the event, however, of evidence of such violation being presented in the proper way as respects any one of those States, no effort would be spared to prevent and punish to the fullest extent of the law any persons charged with the violation of the neutrality statutes of the United States.

In this connection I take occasion also to acknowledge the receipt of your telegram of the 19th instant upon this subject.

I am, &c.,

T. F. BAYARD.

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No. 40.

*Mr. Hall to Mr. Bayard.*

No. 480.]

LEGATION OF THE UNITED STATES

IN CENTRAL AMERICA,

*Guatemala, March 19, 1886. (Received April 17.)*

SIR: In his dispatch No. 466, of the 27th January last, Mr. Pringle reports to the Department that a treaty of peace between Nicaragua and Salvador was signed at Amapala, on or about the 12th of December, 1885, as the result of a conference of delegates from all of the Central American states. The conference did not take place in December, but on the 9th, 10th, 11th, and 12th of January, and resulted in the re-establishment of friendly relations between those states through the mediation of the delegates from the others. The convention, it cannot be called a treaty, was signed on the 13th of January. I inclose a copy and translation. The spirit manifested at the conference appears to have been highly conciliatory; the parties agreed to waive all explanations and the discussion of their respective grievances, limiting such discussion to the prime object of the conference, the renewal of their interrupted friendly relations, and the promotion of peace and tranquillity among the peoples of their states as an imperative necessity.

The fourth and last article of the convention provides for the settlement of future questions and disputes by arbitration; after having made use of other peaceful means of conciliation, it is agreed that such questions shall be submitted to the foreign diplomatic representatives in Central America, and, in case they should object, to the decision of one or more friendly Governments.

The convention was signed by the delegates of Nicaragua and Salvador as parties thereto, and by the delegates of Guatemala, Honduras, and Costa Rica as mediators. It has since been ratified by the Governments of the two states most interested.

The conference at Amapala and its satisfactory result are due to the initiative of President Bogran, of Honduras, who took steps to bring it about immediately after the invasion of Nicaragua by an expedition fitted out in Salvador, as reported in No. 441, of the 4th November, 1885.

I inclose a copy of the protocol of the conference, but as its substance is contained in the convention, I have deemed it unnecessary to append a translation.

I have, &c.,

HENRY C. HALL.

[Enclosure in No. 480.—Translation from *El Diario Nicaragüense* of 15th January, 1886.]

PEACE IN CENTRAL AMERICA.—RE-ESTABLISHMENT OF RELATIONS BETWEEN NICARAGUA AND SALVADOR.

We take pleasure in publishing in continuation the peace convention agreed to at Amapala on the 13th instant, between the plenipotentiaries of Nicaragua and Salvador, with the presence and mediation of the representatives of Honduras, Guatemala, and Costa Rica.

The agreement appears to us to be highly satisfactory for both Governments. No recriminations, no exigencies, nor irritating explanations; the object of that diplomatic meeting of all Central America has been reached with exclusion entirely of past differences.

We know that the convention has been generally well received, and that President Menendez telegraphed to Señor Castellano expressing himself as well satisfied with the bases.

All good Central Americans ought to be well pleased in regard to the meeting at Amapala. To the enlightened Government of Honduras belongs the high honor of having initiated the patriotic idea, and of co-operating actively and intelligently in carrying it out.

CONVENTION OF AMAPALA.

In virtue of the bases proposed, with the authorization of the plenipotentiaries of Honduras, Costa Rica, and Guatemala, for the settlement of the disagreement existing between the Governments of Nicaragua and Salvador, as appears in the protocol to that effect, signed by them and having unanimously accepted those bases at the public session of yesterday, and in compliance with the agreement expressed in the finale of the proceedings, His Excellency Dr. Don Tomas Ayon, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, of the one part, and His Excellency Dr. Don Jacinto Castellano, of the other part, both of them competently authorized by their respective Governments, have agreed to the following stipulations:

(1) The plenipotentiaries of Nicaragua and Salvador, faithfully interpreting the sentiments of conciliation and mutual benevolence that animate their respective Governments, leaving out all discussion and even explanations that might cause ill feeling, considering the primordial object of their mission the imperative necessity of establishing upon solid bases the exterior peace and interior tranquillity of the peoples, consign to oblivion every motive of disagreement between the Governments, and recognize in their full force and vigor the conventions and treaties hitherto existing in which friendship between the two Republics was stipulated.

(2) With the view of renewing the relations unfortunately interrupted between the Governments of Nicaragua and Salvador, each Government shall issue on the 10th of February next a decree declaring their official relations to be mutually re-established, and in order that the contracting Governments shall be reciprocally informed of the approval of the present convention and of the date thereof, each one shall give notice by telegraph to the minister for foreign affairs of Honduras, so that he may, by the same means, inform the contracting Governments.

(3) For the re-establishment of the most perfect confidence and tranquillity in Nicaragua and Salvador, and in order that the asylum of the enemies and malcontents may not in any case be prejudicial to either of the Republics from whence they proceed, it is stipulated that the Governments of the mentioned Republics shall concentrate the refugees, in order to keep a watch over them and to prevent their providing themselves with arms and implements of war that might be made use of for antagonizing their Governments. For the due information of the said Governments upon other points, it is likewise stipulated that whenever there is any suspicious emigration from

Nicaragua in Salvador, or *vice versa*, or either of them shall have information of machinations or plottings of the malcontents against the Governments of one or the other of said Republics, the one so informed shall give official notification to the other, in order that it may take suitable and seasonable measures.

(4) Whatever may be the motives of disagreement that in future may unfortunately occur, the Governments of Nicaragua and Salvador solemnly stipulate to abide by arbitration as a necessary and civilized medium to avoid war, and previously to make use of all pacific measures of satisfaction and agreement.

These measures shall be the exposition of the offenses and injuries, verified by proof or by trustworthy witnesses of the Government which considers itself aggrieved, and if due explanations or satisfaction be not given, then, as is stipulated, the matter shall be submitted to arbitration of the diplomatic representatives accredited in Central America, and that in case these should object to accepting the duty, it shall be submitted to the decision of one or more friendly Governments.

In testimony of all which we sign and seal, with our respective seals, the present convention in Amapala, the 13th day of the month of January, 1886.

TOMAS AYON.

JACINTO CASTELLANO.

The plenipotentiary mediator of the Government of Honduras:

JERONIMO ZELAYA.

The plenipotentiary mediator of the Government of Costa Rica:

R. VILLEGAS.

The plenipotentiary mediator of the Government of Guatemala:

MARIANO CRUZ.

#### No. 41.

*Mr. Bayard to Mr. Hall.*

No. 341.]

DEPARTMENT OF STATE,

*Washington, April 21, 1886.*

SIR: I have received your No. 480, of the 19th ultimo, concerning the convention signed at Amapala, January 13, 1886, re-establishing amicable relations between Nicaragua and Salvador, and have to say that the same has been read with friendly interest in what touches the assured peace of the sister Republics of Central America.

I am, &c.,

T. F. BAYARD.

#### No. 42.

*Mr. Hall to Mr. Bayard.*

No. 509.]

UNITED STATES LEGATION IN CENTRAL AMERICA,

*Guatemala, May 22, 1886. (Received June 14.)*

SIR: With reference to your instruction No. 342, of the 23d ultimo, inclosing copies of letters from Mr. Alex. McPherson, dated Bridgeport, Baker County, Oregon, April 12, in which he asks for information concerning the recently reported gold discoveries in Honduras, I have the honor to inform you that I have complied therewith by forwarding to Mr. McPherson direct, via San Francisco, a copy of a report received a few days since, upon the mines of precious metals and mining industry of that country, by Mr. George Bernhard, who is now, in the absence of the consul, in charge of the consulate at Tegucigalpa. The report contains all the information asked for, and much more. I inclose a copy, and have no doubt it will be found of much interest. I inclose also a copy of my letter to Mr. McPherson. The placer gold mines of



Honduras, which have recently attracted so much attention in the United States, have been known a long time. They lie on both sides of the boundary line between that state and Guatemala, and have never been worked with much success in either. From the inclosed report, it appears that they can be developed profitably by the hydraulic system only, which requires a large outlay of capital. With reference to these placers, Mr. Bernhard says, "They are not so rich as represented." He also says that "experts have pronounced them equal to the best hydraulic washings of California, and that large investments of capital will meet with handsome profits." This report, in so far as it relates to the immense mineral wealth of Honduras, the enormous production of the mines during the colonial period, and the new development that is about to be given them by American enterprise, intelligence, and skill will, I am persuaded, be found of interest.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 509.]

*Mr. Bernhard to Mr. Hall.*

UNITED STATES CONSULATE,  
Tegucigalpa, May 1, 1886.

SIR: In reply to yours of March 29, addressed to Daniel W. Herring, esq., United States consul at Tegucigalpa, requesting information about the mines and mining industry of Honduras, I beg leave, in the absence of that gentleman, to report as follows:

The gold and silver mines of Honduras are divided into ten mineral districts, having nearly two thousand known veins, beside which are the placer gold washings, situated on what is known as the "North coast," that is to say, north of the Cordilleras, which, running east and west, divide the country into a north and south section. I am aware that these placers are attracting great attention in the United States, but from the best information which I can get on the subject, are not as rich as represented.

The alluvial deposits forming the gold washings average about 30 feet in depth, and cover hundreds of square miles, all of which is well watered and heavily timbered. Experts who have examined the placer country, particularly in the department of Olancho, unite in pronouncing it equal to the best California hydraulic washings, and say that large investments of capital will meet with handsome profits. On the other hand, the earth is too poor to pay the pan miner.

Gold-quartz veins abound on the north and south coasts, while between them lies the great silver belt of the country. This silver belt is over 50 miles in width, and extends across the country from east to west.

The gold quartz veins yield mainly a refractory ore, and the silver ores are principally sulphurets and galenas. Most all the silver veins carry gold in paying quantities. Many of these veins attained great fame for their production of the precious metals when Honduras formed part of the vice-royalty of Guatemala. Indeed, Honduras then produced four-fifths of the mineral wealth extracted by Spain from Central America. Many of the traditions of these would be incredible but for the corroborative proof furnished by the records in possession of the Government.

A case in point is the Claro Rico mine, located in the department of Choluteca, near the Pacific coast. This mine produced gold in such great quantities that the Crown of Spain doubted the genuineness of the metal, and appointed a royal commission to investigate, and in consequence, a special royal treasurer was stationed at the mine to receive the "King's fifth," the tribute paid by all mines to the Crown of Spain.

The richness of another mine, the Guayabillas, also known as the Gamblers' mine, in the mineral region of Yuscarán, department of Pariso, once caused a great revolution. It would not be difficult to cite twenty other instances of rich mines; in fact all the mineral districts contain a number of properties which have been remarkable for their production.

The records in support of the statements made of these mines date back to the last quarter of the seventeenth century, and are in a remarkable state of preservation. To search them, however, with any particular mine in view, is a work requiring con-



siderable time, as their care is divided between the General Government and the municipality of Tegucigalpa, and no successful effort has been made to classify them.

The two principal causes leading to the abandonment of the mines since the independence of 1821, were numerous revolutions and the robbing, under legal permission, the mines of their pillars. These pillars were, in most instances, very rich, and afforded the native miner the readiest profit at the least outlay, but ultimately resulted in the complete ruination of the works.

By the native system of mining and reduction, ores yielding less than \$60 a ton cannot be worked.

A few years ago the mining laws were amended by the adoption, with some modifications, of the Chilian mining code, and a vigorous effort was made by the Government to encourage the investment of foreign capital, and concessions of great value have been repeatedly granted to individuals proposing to organize companies to develop the mining industry of the country. The only concession, however, which produced any great result was granted to a Mr. Thomas R. Lombard, of New York City, who organized what is known as the Central American Syndicate Company. The great privileges possessed by this company have enabled it to secure what are considered the best mines in the country. Under its auspices nine companies have been organized in the State of New York, and are all developing their respective properties on a large scale. Judging from the work already accomplished and that said to be contemplated, all of these companies are in possession of ample funds to carry them to success. The companies have their headquarters in New York City, and are known as the Santa Lucia Mining and Milling Company, the Rio Chiquito Company, Santa Elena Mining Company, Honduras Mining Company, Yuscaran Mining Company, Animas Mining Company, and the Pariso Reduction Company.

As the Government derives no revenue from the imports or exports of the mines, no data is kept of the bullion exportations.

The Government has greatly aided the mining industry within the past ten months by the building of a practical cart road from the Pacific coast into the heart of the mining country. This is the only cart road in Honduras.

The mining laws are liberal, but, excepting in the case of the companies organized under the concession granted to Mr. Lombard, and now owned by the Central American Syndicate Company, titles to mines are not held in fee-simple. Aliens enjoy the same rights as citizens in respect to mines and real estate, and the General Government is disposed to grant extra privileges to those who can influence the introduction of capital.

A mining claim is 250 varas long, by from 100 to 200 varas wide, according to the dip of the vein. A vara is between 32 and 33 inches long. More than one claim is allowed upon a vein.

The imports and exports on account of the mines are free.

Possession of mines is maintained for an indefinite term by the labor of four men. Natives engaged in mining can be exempt from military duty.

Yours, &c.,

GEORGE BERNHARD,  
Vice-Consul.

[Inclosure 2 in No. 509.]

*Mr. Hall to Mr. McPherson.*

UNITED STATES LEGATION IN CENTRAL AMERICA,  
Guatemala, May 20, 1886.

SIR: I have received from the Department of State copies of your letter, dated the 12th ultimo, to the honorable Secretary, and one to myself of the same date, in which you ask for information concerning the mines and mining interests of Honduras. Within the past week I have received a report on that subject from Mr. George Bernhard, an intelligent resident for many years of that state, and I have no doubt it will be found both interesting and trustworthy. I inclose a copy herewith.

I beg leave, however, to suggest to you, before making any definite arrangement, that two or more of your company should visit Honduras and acquire the necessary information by actual observation and experience. They should visit the capital, Tegucigalpa, which is most accessible from Amapala, the Pacific port of the country, and make their plans fully known to the Government, which I have no doubt will afford them all needed information and such assistance as it may be able to render.

The Hondurian Government manifests a great desire to give every protection to legitimate enterprises when undertaken by responsible parties with sufficient means to carry them out.

I am, &c.,

HENRY C. HALL.

No: 43.

*Mr. Hall to Mr. Bayard.*

No. 575.]

LEGATION OF THE UNITED STATES,  
*Guatemala, October 27, 1886. (Received November 20.)*

SIR : \* \* \* A very interesting article upon the subject of a Central American Union has recently appeared in a newspaper of Salvador. I inclose it herewith with a translation. The author, Señor Nicolas Angulo, is a prominent citizen of Salvador, and a candidate for the Presidency at the elections which are to take place during the next month.

He reviews the causes that brought about the dissolution of the original confederation and the several attempts that have been made since 1840 to restore the unions—by Morazan, during the same year ; by Vasconcelos, President of Salvador, in 1851 ; by Gerardo Barrios, also President of Salvador, aided by General Jerez, of Nicaragua, in 1863, and by Barrios, President of Guatemala in 1875, 1883, and 1885, all of which terminated in absolute failure, and the effect of which has been to postpone indefinitely the realization of that great idea.

His conclusions are that the restoration of the Central American Union is of vital importance to the welfare of these states, but that its accomplishment by force or diplomacy is impracticable ; that it will be possible only when personal and revolutionary governments shall have ceased to exist in Central America and after several successive periods of constitutional rule in all of the states.

I have, &amp;c.,

HENRY C. HALL.

[Inclosure 1, in No. 575.—Extract from *El Cuscatlan*, of San Salvador.—Translation.]

## IDEAS CONCERNING THE CENTRAL AMERICAN NATIONALITY.

The advantages of the reunion of these five little Republics into one national body are evident ; the world recognizes this truth which it is needless to discuss anew.

Patriots should only consider the objections that oppose it. Let us briefly enumerate some of the events that are in opposition to this great question.

Our first constituent assembly, instead of decreeing the continuation of the central government, to which the country was accustomed, with the needed reforms that prudence might suggest, converted the five provinces of the former Kingdom of Guatemala into five sovereign States, bound together by a federal union in imitation of the United States of America, and by this false step planted the germs of future dissensions.

The truth is that this assembly was almost coerced by circumstances. The long interregnum between the independence and the constituent assembly had created interests and developed local ambitions adverse to the centralization of power. Salvador had already declared herself a federal State. This, in a certain mode, imposed the federation, and the majority of Congress adopted it.

But the bond of union was very weak. The Federal Government, in opposition to the governments of the States, had not sufficient power to enforce its authority, and discord soon produced its disastrous results. Prado, chief of Salvador, was the first to rise in arms against the federal Government of Arce, established in Guatemala. Upon a frivolous pretext he sent a column of Salvadorian troops under the command of General Figueros, whose real mission was to overthrow President Arce. The latter went out to meet Figueros and routed him at Arrazola.

The Guatemalan troops were not long, in their turn, in invading Salvador, and in keeping up that long disastrous war that did not terminate until 1829, by the entrance of Morazan in Guatemala.

That long period of war and disorder had brought about many complications that Morazan, named the President of the Confederation, could not overcome. That leader multiplied in vain his efforts to consolidate the union ; new difficulties and disap-

pointments sterilized his victories, and in the year 1840 the last shadow of a federal Government disappeared with this chief. The States declared themselves independent, and put off national reconstruction until better times. We will now record summarily the principal attempts at nationality made afterwards.

Morazan did not admit himself conquered in 1840. Two years later he landed at La Unión, bringing with him arms and ammunition and a corps of officers selected from among the most distinguished of the federation. He marched without delay to San Miguel, expecting that all the patriotic would come to join his standard. But the people did not respond to his call. Happy in their repose and fresh in their memories of their past misfortunes, they commenced to look with horror upon the nationality, and even upon Morazan, who they saw was bringing into the country the torch of desolation without well-founded hopes of any important success. When the troops under Malespin, sent from the capital to combat him, were approaching San Miguel, he was obliged to re-embark with his partisans.

A short time afterward that legendary hero appears in Costa Rica, which he had taken possession of with an audacity worthy of better fortune, and he followed up, without rest, the idea of establishing his power in the other sections.

Without taking the necessary time to consolidate his Government in Costa Rica he commenced to recruit and to organize there the army which he expected to carry through Central America the flag of the union.

The hard-working and peaceful people of Costa Rica did not participate in his enthusiasm. They doubted, and rightly, the success of a war against four governments, then united in friendship, and prepared for resistance. The violences and vexations consequent upon the conscription and upon a state of war caused great exasperation. The conscripted army revolted in mass and attacked Morazan, who was defended by the few Salvadorian soldiers who accompanied and remained faithful to him; but that handful of heroic Salvadorians fought uselessly against a whole people. Morazan was made a prisoner and shot on the 15th of September, 1842.

The year 1851, Vasconcelos, President of Salvador, believing himself with sufficient power and prestige to reconstruct the nation, and in accord with Honduras, raised the national standard and invaded Guatemala with an army of Salvadorians and Hondurians. His proclamation displayed the measure of his illusions, as great, to our sorrow, as was his ambition. Carrera waited for him at Arada, and defeated him on the 2d of February; a sad day for the Salvadorian people, who saw their arms tarnished and the generous blood of their sons shed in torrents in that useless struggle, as at other times in the pursuit of an impracticable ideal.

Still fresh the blood shed in Arada, Cabañas, the President of Honduras, Cabañas, the loser of battles, the hero persecuted by ill-fortune, considered himself called upon by destiny to reorganize the union. He convoked a Congress of the representatives of the other states at Tegucigalpa, without giving notice to Guatemala or Costa Rica. This Congress decreed the union of the three States with Cabañas naturally, as President; but although he had raised troops for the purpose of sustaining the acts of the Congress, the other two Governments hastened to disown him. For this reason Cabañas threatened war upon Dueñas, then the President of Salvador, which war was averted through the medium of diplomacy.

Afterwards he appeared as the invader of Guatemala, and expecting, doubtless, to be aided by the Guatemalans, he took possession of Chiquimula, where he could not sustain himself, and returned to Honduras.

The troops of Guatemala were not long in following him into his own territory, and in depriving him of his office.

The people commenced to repair the disastrous nationalist enterprises, when, in the year 1863, General Gerardo Barrios, President of Salvador, in turn undertook to re-establish, under his own command, the national union. Allied with Honduras, and imagining himself possessed of the power and prestige necessary for such a great undertaking, he provoked, that year, the war that, in his opinion, was to give him dominion over the five Republics, but which produced calamities only, and the premature end of that energetic Salvadorian whose ambition was his only fortune.

Barrios (of Salvador)\* opened the campaign of 1863 with the glorious victory of Coatepeque over the army of Guatemala commanded by Carrera. No advantages resulted from this victory which gave Salvador the opportunity to obtain an honorable treaty of peace. Intoxicated by his triumph, and believing himself already the master of Central America, he sent Jerez with Salvadorean troops to take possession of Nicaragua.

This illustrious Nicaraguan, an unconditional unionist, had in good faith placed his prestige at the service of Barrios, believing that the latter would carry out his political ideal. The refugees and malcontents of Nicaragua persuaded him, *as always happens in such cases*, that the unpopularity of the Nicaraguan Government was so great that it could offer no resistance, and that when Jerez should present himself

\* There were two Barrioses in Central America—Gerardo Barrios, President of Salvador in 1863, and Justo Rufino Barrios, President of Guatemala from 1870 to 1885.



everybody would receive him with open arms. Allured by such hopes he invaded Nicaragua. The Nicaraguans received him with rifle-balls; they routed him, destroyed his prestige, but not his illusions.

These events, which took place in 1863, caused an unfavorable change in the situation of Barrios (of Salvador), who soon thereafter was completely abandoned by fortune; he continued, however, to waste uselessly the blood and treasure of Salvador in a barren, senseless struggle that only terminated with his flight from San Salvador in 1863.

Twelve years transpired without the recurrence of any serious menace of union to disturb the tranquillity of these States. The people who are happy in peace imagined that the experience of past misfortunes would serve as a check to restrain ambitious leaders from launching forth upon new adventures. But there is no possible check to ambition except the retribution that falls upon its own head. The lessons of experience serve for no purpose; every ambitious leader believes himself superior to his predecessors.

In the year 1875 a sinister rumor of union circulates, and a new tempest of calamities appears upon our political horizon. This dark cloud is the ominous ambition of Justo Rufino Barrios, Dictator of Guatemala, that menaces Central America.

When this jacketed Caligula had the unfortunate Guatemala prostrate under his feet, when he had destroyed there, by terror and ferocity, every element of resistance to his domination, he imagined he could extend his ominous power over the other Republics of Central America.

Salvador and Honduras, illy provided with the means of defense in their military organization, were invaded in 1876 by Guatemalan armies prepared and organized beforehand.

But Barrios met with more resistance than he imagined, and although he did not obtain the easy victory that he expected, he acquired notable advantages which permitted him to establish Zaldívar (recommended by Guardia, President of Costa Rica) as President of Salvador. Zaldívar guaranteed to Barrios an absolute solution and the surrender to him of Salvador whenever Barrios should undertake his national union enterprise. The nine years following 1876 were employed by Justo Rufino Barrios in perfecting his armament and in improving the organization and discipline of his militia. Zaldívar saw with unconcern those preparations, destined against Salvador, and, deaf to the voice of the patriots who pointed out the danger, neglected completely the military organization of the Republic, and in this way the country was an easy and sure prey to the ambition of the conqueror, an enormous crime against the country.

Justo Rufino Barrios, believing himself sufficiently prepared, in accord with Honduras, judging the circumstances favorable to the purpose, issued on the 23rd February, 1885, his monstrous decree, declaring himself the supreme chief of the five Republics. A shout of indignation against him resounded on all sides; Salvadorians fly to arms; Nicaragua and Costa Rica hasten to resist.

Barrios soon invaded Salvador with a fine army; a partial success obtained on the frontier inflames his ambition and pushes him hastily toward Chalchuapán, bulwark of Salvadorians, where await him the bullets that were cast, at the time of the independence, to free us from a tyranny a thousand times worse than the colonial despotism.

Thus ended the life of this cacique, the most cruel and sanguinary monster that America has produced, defrauding even in his death the rights of justice and of public vengeance, which demanded the expiation of his crimes, leaving behind him, as a sole punishment in this world, the execrations of posterity, the real vengeance of the people.

But let us suppose for a moment that Barrios had triumphed in Salvador; that he had placed his foot upon Nicaragua, and subjugated Costa Rica; that with his system of implacable ferocity he had, as in Guatemala, destroyed all resistance, and, finally, had consolidated his dominion upon the ruins of Central America; his evil genius would have had no stability; the execution of Central Americans would have borne no fruits. His power, linked to his personality, would hardly have lived during his own existence. The hour of his death would also have sounded the hour of redemption of Central America. New complications would have arisen, new hatreds and new interests would have been awakened, and the desired union would have been still further retarded.

Personal governments never establish anything that remains stable; their undertakings, dictated by ambition, stimulated by vanity, bearing no stamp of justice or of public expedience, fail inevitably as all works of iniquity must fail. The empire of Alexander lasted only the moments of his life. The great empire of Napoleon I went down also and forever at the first shock of evil fortune, and that absolute ruler of Europe, who dragged in his train a court of degraded kings, died like another Prometheus, chained to a rock where a vulture slowly devoured his vitals. Such are the lessons that tyrants should ever bear in mind.



From the foregoing is to be drawn a self-evident truth, unquestionable, clear as the light of day, "*The Central American Union by force is impossible.*"

What have the attempts made during the period of more than forty years left us? Death, desolation, misery, and ruin; hatred between the peoples; hatred renewed by war when it had begun to disappear. These ill-timed attempts have left us something still worse; the arrogant personal governments that concentrate all possible power in the person of the President in defraudation of the rights of the citizen, of the dignity of the nation, and of orderly administration, whose movements it disarranges.

The errors of Morazan brought out Carrera and inaugurated that disastrous era of life governments and dictatorships, more or less disguised, which are the real and great obstacle to the union and the cause of all the misfortunes of the people. The egotistical leaders, moved by personal ambition, who have drawn the sword in behalf of the union, have marched us backwards on that road.

The union is to be expected only from Governments constituted in accordance with law, emanated from the people, which follow the paths of legality; they alone can be inspired by the true interests of the citizen, with absolute abstraction if persons. To obtain the union it is essential that the five rulers should resign and place their powers upon the altar of public expediency, and only lawful rulers are capable of descending from those high positions (that turn the heads of tyrants) to intermingle voluntarily with their fellow-citizens, and enjoy the unfading glory of Aguilar, Campo, and San Martin, of grateful remembrance.

After so many years it is sad to confess it, only in Nicaragua is there alternation in power, in conformity with the law, and a Government that keeps within the sphere of legality which is alone compatible with democracy and liberty.

In the other Republics, with few exceptions, we have had rulers who have risen out of revolutions and continued in power by usurpation; as usurpers of public authority, they have been as tenacious as of their real estate, and disposed to surrender it only with their lives. With rulers of this class union is impossible, because union implies a voluntary abdication of power, which can only be arrested by force, and the national union, that generous aspiration, will continue to be nothing more than a nuisance to the peace of Central America.

Let, then, the unionists give their attention to the real difficulties that oppose the union. Let them found their hopes upon the present rulers of the five Republics; they are all new in power, and none of them are stained with the crime of usurpation; upon them depends the future of Central America.

Whenever, in the five Republics, there is alternation in power, without violence or revolutions for several successive periods, in conformity with the fundamental law, it may be expected that the five Governments will fix upon a day upon which the five Presidents shall resign, and turn over their powers to a national President. To attempt to obtain this union by diplomatic means is absurd; to attempt it by force is criminal.

NICOLAS ANGULO.

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## CHINA.

No. 44.

*Mr. Denby to Mr. Bayard.*

No. 57.] LEGATION OF THE UNITED STATES,  
Peking, December 18, 1885. (Received February 18, 1886.)

SIR: Before leaving the United States I was directed to report on the likin tax. During the short time I have been here I have given the subject all the attention that I could, and have availed myself largely of the information and learning of the secretary, Mr. Rockhill. I have now the honor to inclose a memorandum, which gives a complete history of the subject, with such recommendations as seem to me advisable.

I have, &c.,

CHARLES DENBY.

## MEMORANDUM ON LIKIN TAXATION.

## I.

Between 1543 and 1544 the Government of China, desiring to cover the losses arising to the public exchequer from the necessity of having to remit the land tax, wholly or partially, in the disturbed districts, and in view of the absolute necessity of raising funds for the pay of the soldiery (decree September 23, 1879) instituted the "likin" tax, or a tax of .001 on the tael.

It might be supposed, if we consider but the name (*li*, .001 of a tael, *kin*, money coin), that it was an ad valorem duty; but such does not appear ever to have been its character. In its present form, which dates from about 1830, when it became a universal tax, it is a specific rate per bale, piece, or picul, as the case may be. Originally of a temporary character (decree February 11-12, 1832), it has become a permanent and universal tax, which has gradually become intolerably burdensome to native and foreign trade alike.

The amount and mode of the collection of likin varies in the different provinces, in each of which this service is under the direction of the provincial high authorities. In each province there is a likin central office (*Tsung Likin Chü*) under the direction of a high official, and he establishes subsidiary stations throughout the province along the routes frequented by trade, and intrusts the management of each to a deputy (*wei-yüan*), who reports to the central office, and is independent of the local officials. Each deputy transmits his accounts to the central office, and there does not appear to be any means of controlling them. In many cases, especially at the large ports, the collection of likin on a certain article of trade is farmed out, the contractor paying a fixed sum per annum to the provincial authorities, generally a very small percentage of the sums collected, and retaining the balance for himself.

The likin barriers have gradually increased until they are thickly distributed throughout the provinces, the number of deputies (*wei-yüan*) deputed to manage them is excessive, and the expenditure thus unnecessarily incurred is very large. \* \* \* The imperial commands have been issued directing governors-general and governors to apply themselves with genuine zeal to the task of withdrawing or amalgamating these collectorates. Habit and long custom have, however, in many instances, prevailed, and the desire of standing well with their subordinates has often induced their chiefs to help them with appointments to these collectorates. (Decree December 29, 1884; see also decree September 23, 1879.)

Great Britain, by the treaty of Nanking (August 29, 1842, Article X), founded the transit pass system, which has since been adopted by all of the treaty powers in China, the object of which was to exempt by the payment of a transit duty (fixed at half the tariff duty) all foreign goods from all inland taxation.

This system would have been of the greatest assistance to foreign trade, as well as to native, but for the determined opposition of the provincial authorities. \* \* \*

A few of the irregular or arbitrary modes of procedure of the local authorities in connection with foreign goods under transit pass may here be mentioned, and among these I will not even consider the categorical refusal of the local authorities (as at Kini Chan) to recognize transit passes, "upon the arrival inland of any merchandise protected by a transit pass the likin officials at the place of designation proceed at once to exact a 'consumption tax,' and it must be paid by either the seller or the buyer before the goods can be transferred. This tax is quite arbitrary, and upon bases quite unknown to the seller. It may be light and not appreciably advance the cost of the goods. It may also be and often is exorbitant, and amounts to a prohibition of sale without actual loss.

"When the goods have arrived at the terminus indicated in the pass, they become 'uncertificated,' and, if forwarded further inland, must pay likin at every barrier passed. If twenty such barriers intervene between the point indicated in the pass and some city further inland to which it is desirable to transport the goods for a market, at every one of the twenty barriers likin must be paid.

"There are yet to be adduced evils in the system certainly not less than the foregoing. They are the uncertainty in valuation and the apparently arbitrary way in which rates are decided upon. \* \* \* Receipts for payment are refused, \* \* \* so that there can be no proof of illegal exactions, if complaint is made. \* \* \* I have known of 15 taels having been paid to get goods passed at Quai-Chow, while a memorandum of the payment of 1 tael 5 mace (tl. 1-5) was only affixed to the boat containing the goods." (I. F. Shepard, United States consul at Hankow to Minister Seward, No. 35, November 12, 1879.)

While the taxing of uncertificated goods certainly appears irregular, still it is a right claimed by China, as may be seen by reference to the memorandum of the Tsung li Yamén to the Chinese ministers abroad, in March, 1878, quoted further on.

A more convincing proof of how hopeless it is to expect a development of an import trade until some alteration takes place in the transit pass system is derived from

the following list of goods sent up country from Takhoi under transit pass during the year 1884 (Clement F. Allen, H. B. M. consul, Takhoi, trade report for 1884):

White shirtings, pieces, 50; yarn, piculs, 51.30; longells, pieces, 100; needles, mille, 280.

A proof of the baneful effect of likin taxation over foreign trade may be shown by the recent increase in the amount of likin levied on kerosene oil at Canton.

Under the tariff the import duty on kerosene oil is fixed at 5 per cent. per case, but since 1882 a likin has been levied on kerosene at Canton of 40 cents per case, on the grounds set forth in the annexed proclamation, by which the petitioner is granted the right to collect this likin in consideration of the annual payment to the provincial authorities of \$31,000. In the latter part of 1884, or the commencement of 1885, another likin tax was imposed upon kerosene of 30 cents per case, thus making at the port of entry alone a total tax of 47½ per cent. as against 7½ per cent. as contemplated by the treaty for import tax and transit dues.

This case serves also to show how thoroughly worthless is the system, for supposing the normal importation of kerosene oil into Canton to be 500,000 cases, and this is believed to be a close approximation, the extra tax of 40 cents per case would yield the monopolist \$200,000 per annum, whereas he only pays \$31,000 per annum to the Government or about 6 per cent., the balance being retained by him.

One of the chief grievances which the Chinese authorities have against the transit pass system is the abuse which foreign merchants make of the privileges which the passes accord them, and the facilities they afford Chinese merchants, whose agents they are, of bringing from the interior under transit pass goods which they have no intention of exporting, and in the ownership of which the foreign merchant has no part.

The following case is a good example of the practice:

"Foreign opium imported into Shanghai is placed in bond and the duty of 30 taels per picul (133½ pounds) is paid when delivery is taken, and in some cases, to avoid the likin tax, which is a high one, certain foreigners clear the opium at the custom-house, thus representing that they are the bona fide owners. It is taken to a hong over which hangs their sign, and here it is retailed to the (Chinese) shop-keepers. For the use of his name the foreigner receives a commission on every chest so disposed of, and this whole system is simply a transparent fraud upon the revenue of China, so long as the present regulations exist." (Acting Consul-General E. J. Smithers to Minister Denby, No. 154, November 19, 1885; see also for parallel cases Shanghai Taotai to Consul General Mayers, August 15, October 16, 1876. Mr. Consul Shepard to Mr. Young, April 7, 1884. Mr. Vice-Consul Bergholz to Mr. Smithers, No. 95, July 27, No. 97, August 14, 1885; conf. also H. B. M. consul at Wuhu, trade report, 1884, p. 61.)

Putting aside the question of foreign trade, and only considering the likin question as part of the internal revenue system of China, we find that as a whole it works most unsatisfactorily, and that the abuses in connection with the stations for the collection of likin are very numerous. (Decree November 13, 1879.)

In an imperial edict of January 24, 1876, referring to the petition of the censor, Hwang Hwai Shen (published February 13, 1876), it is stated that the higher officials connected with the likin offices avail themselves of their positions and of the great number of officials attached to likin stations to provide expectants for office; that even if these officials commit no wrong, yet their excessive numbers alone cause very great expense, but moreover the greatest extortions by the watchmen and guard-boats are reported, as, for instance, the seizure of goods before they have arrived at a station, on pretext that they have been smuggled, or the stoppage of goods which have already been examined and are furnished with receipts for the dues paid. In other cases great sums have been extorted from personal luggage or from goods which are duty free, and a declaration has been demanded from the owner that no illegal payments had been exacted from him. Should he refuse to do so his goods are brought to the principal station and there detained. The owner is subjected to torture, and finally the goods are confiscated without consideration of the fact whether dues have been paid or not, or they are perhaps returned to him after a fine of eight-tenths of their value has been levied.

The censor Ko Ching, addressing the throne on the abuses in the likin collection in Kuang-si (Peking Gazette, April 20, 1881), says that all sorts of abuses are rife in the collection of the tax; for example, goods which remain unsold on the expiration of one hundred days are liable to a second likin charge.

In a memorial from Chang Kai-Sung, governor of Kuei Chow (Peking Gazette, August 17, 1884), referring to the vexatious exactions in the collection of likin revenue, he states that three abuses must be specially guarded against:

First. The vexatious taxing of porters and bearers of loads who are called upon, under the name of *lo-ti* or tax at the place of deposit, to pay duty on the most trifling and petty commodities.



Second. The vexatious delays that are caused by underlings who do everything to hinder the free passage of goods, and the heavy fines inflicted by collectors who put these fines in their own pockets.

Third. Private taxation under public names, and the erection of subsidiary barriers where duties are levied a second time.

A censor, Hu Ting Kwei, writing in 1875, calculated that the *likin* on salt alone, faithfully returned, ought to yield 12,000,000 taels, and that the levy on miscellaneous goods should probably be about the same amount. As it is, the *likin* on salt, opium, and miscellaneous goods does not probably yield over 18,000,000 taels. (See Jamieson, "The Revenue of China," page 35.)

## II.

The position taken by the Chinese Government in regard to the *likin* question is clearly set forth in a memorandum sent by the Tsung-li Yamén to the Chinese ministers abroad in March, 1878, and which they communicated to the different Governments to which they were accredited.

As regards *likin* the memorandum says: "Likin is continually objected to by foreigners. But is it not just as well known that Chinese merchants are opposed to it too, and that the Government regards it only as a temporary expedient? "Independent powers must be guided by national necessities in fixing their taxation. In these troublesome times the demands on the Government are very heavy, and it is impossible to avoid having recourse to special measures; we maintain that all such matters should be left to be determined by China herself, and that the foreigner has no more right to interfere with or object to them than China would have to interfere with or criticise the action of a foreign Government in raising loans or increasing taxes. If foreign merchants desire to escape the *likin* they can escape it. All they have to do is to supply themselves with transit certificates when taking foreign goods into the interior or bringing native produce out of the interior; if they do not carry transit certificates they must pay the *likin*, for in the absence of transit certificates all goods are alike and indistinguishable and must in the interior pay *likin* according to the rule of the locality."

And farther on the same paper, summarizing the position taken up by China on the question, says: "In the matter of *likin* and taxation generally we hold that China, as an independent state, has the right to levy whatever taxes she pleases, in whatever manner she may think best, and we consider it unfair on the part of other Governments to question our proceedings or put difficulties in our way, seeing that we only collect special taxes because special circumstances call for them."

To the arguments put forth by China it may be replied that, if China, in claiming the sovereign right to levy whatever taxes she pleases, and, in such a way as best suits her purposes, asserts her right to interpret as she pleases the agreements by which she has entered the commercial union of nations, we must categorically deny it her, for this right belongs to none of the contracting parties. If, moreover, we admit her claim to subject foreign goods on which the full duty at the port of entry has been paid to such additional taxation as she may choose to impose, it is as if we allowed her the right to tax *ad libitum* foreign goods and virtually suppress foreign trade.

Referring to the transit question, the same memorandum remarks:

"As regards transit inwards foreigners have maintained that to say goods are exempted *en route* from a port to the place mentioned in the transit certificate is not enough. They have held that foreign goods which have once paid transit dues cannot subsequently be called upon to pay any local charge whatever. To this interpretation we cannot agree. \* \* \* In a word, as we understand the inward transit privilege, a certificate only protects goods from charges *en route* from port to place; but this is already a great privilege, for on payment of transit dues the foreigner can at pleasure send his goods to any market, however distant, without further liability to taxation."

This right of taxing foreign imports when they have become uncertificated cannot be admitted by foreign powers. It takes away nearly all the advantage of the transit pass system, and allows China to levy in very many cases *likin* on foreign imports to such extent as she sees fit, and thus exclude them from the market.

The position held by foreign powers is, that the transit dues once paid the goods are free from all other inland taxation of whatever nature it may be. They have been willing to see this transit duty increased to 5 per cent., but it must be the sole duty leviable from the moment the merchandise leaves the port of entry until it enters the consumer's hands. "The duties once paid on goods at the port of discharge, their owners should have a right to carry them to the interior wherever they liked; so that wherever found the presumption would be that the goods were there rightfully, and that the customs officials were neither guilty of negligence or corruption in permitting them to pass duty free." (O. M. Denny, United States consul at Tientsin, to Minister Seward, No. 29, December 24, 1879.)



In regard to native produce under transit pass outwards, the memorandum says:

"As regards native produce outwards, the case is just the same as with foreign merchandise inwards. The transactions differ, but the amount of the duty charged is the same, for just as a foreigner can take foreign goods to any part of China on payment of a full and half duty, so he can go to any part of China and thence take Chinese produce to a foreign country on payment of a similar full and half duty."

But it must be borne in mind that "the produce that is entitled to transit privilege can only be such produce as is intended for foreign export."

### III.

The history of the negotiations between the foreign representatives, at Peking, and the Chinese Government in reference to the *likin* question are, briefly, as follows: In 1876 the German minister, Mr. von Brandt, brought up before the Tsung-li Yamên the question of the right of China to levy *likin* within the foreign settlement of Shanghai (the only settlement at the time with defined limits) on foreign merchandise, having paid regular duty prior to its being entered for transit. This was a right claimed by China on the ground that local authorities at each of the treaty ports were allowed to levy dues, and that foreign concessions at the several open ports were still Chinese territory. (*Précis* of conversation between Mr. v. Brandt and the foreign office, 17th June, 1876.)

The negotiations resulted in the Chinese Government agreeing that "from and after the 1st day of the 1st moon of the 3d year Kuang Hsi (February 13, 1877), no *likin* taxes should be levied upon bona fide foreign merchandise imported by foreign merchants within the limits of the foreign settlements at Shanghai, whether sold to Chinese or foreigners. (Prince Kung to Minister Seward, December 12, 1876.)

By this agreement it appears that China did not intend to relinquish her right to levy *likin* on opium within the limits of any of the settlements at treaty ports; and she has exercised this right down to the present day with the approval and sanction on different occasions of the British and German ministers. (Article XLVI, British treaty of Tientsin, clause 3, section 3, Chefoo convention. Mr. v. Brandt to foreign office, 22d day, 10th month, 2d K. S.)

The issuance, August, 1885, by the Shanghai consular body, of legitimization tickets to *likin* runners has been a further acknowledgment on the part of the treaty powers of this right. The question has, however, been again brought under discussion by the British consular authorities asserting that the levy of *likin* on opium within the settlement was an infringement of treaty rights.

The new opium convention between Great Britain and China will settle the question by the levy of a commutation tax of 60 taels per chest (exclusive of 30 taels import duty), which is to free the drug from all further taxation.

On March 20, 1877, Mr. von Brandt addressed a note to the Tsung-li Yamên, in which he requests it (1) to take the necessary steps in order that on German goods conveyed into the interior *without a transit pass*, no other duties be levied than those which existed at the time of the conclusion of the treaty; (2) to take care that in the district within the nearest customs station in existence, no other duties be levied but the import duties. To this note the Tsung-li Yamên replied on the 25th March, 1877, stating that Article XXVIII of the English treaty of 1860 is observed by all treaty powers. This stipulates that if merchants desiring to convey imports inland pay a single duty (*shui*) at the different secondary barriers (*tze kow*), no further duties shall be levied. Under *tze kow* in the treaty all customs stations and barriers are to be understood. Consequently, if merchants do not desire to make the one payment they must pay *shui* at every customs station and *likin* at every barrier. Article I of the general regulations for open ports for 1861 also declares this. It is further said that goods to be conveyed inland, unless provided with a duty certificate, must pay on the way *likin* and other duties.

As to the second demand of Mr. von Brandt, the Yamên states that nowhere in the treaties is it claimed that the limits of the port extend to the nearest customs station.

Mr. von Brandt, in his reply to this note (April 11, 1877), states that he does not wish to commence negotiations on the questions referred to, and that Germany would prefer to settle the question of the levying of taxes on foreign goods together with the other treaty powers by a joint arrangement with the Chinese Government.

On the 23d of September, 1879, the diplomatic representatives of England, Germany, the United States, Holland, Peru, Italy, Japan, Russia, Belgium, Spain, and France held a meeting at Peking and decided to discuss, in common with the Chinese Government, the questions of *likin* taxes, the transit pass system, the judicial system, and official intercourse. (Minister Seward to Secretary Evarts, No. 482, September 24, 1879.)

On the 22d November, 1879, the foreign representatives presented to the Tsung-li Yamên a list of twenty grievances to which foreign trade was subjected. The grievances which have their source in the system of *likin* taxation are:

(1) That taxes of different kinds are levied on foreign imports at some ports as soon as they pass into native hands.

(2) That levies are made on foreign imports in the interior which are not properly transit duties, or are in excess of the transit duties, which were levied when the treaties were made.

(3) That at several of the open ports, inward transit passes are either not issued at all or that the issue is fettered by arbitrary and unnecessary conditions.

(4) That inward transit passes when issued at the port are not respected in the interior of the Empire.

(5) That foreign imports forwarded inland under transit passes are often vexatiously detained by the officers at the stations in order to extort illegal fees or to further the interests of Chinese guilds, who have made special arrangements with likin collectorates or other Chinese officers.

(6) That the protection of the transit-duty certificate is denied to imports when they have passed the barrier nearest the inland market to which they may be consigned under the certificate.

(7) That the exercise of the right of foreigners to visit the interior for purposes of trade is unfavorably affected by the want of proper regulations for the temporary storage or transport of their goods.

(8) That all over the Empire tax stations are constantly opened without due authority.

(9) That the tariffs under which inland duties are levied are neither published nor for sale.

(10) That very frequently no receipts are given for duties levied.

(11) That officials guilty of levying illegal taxes are rarely, if ever, punished.

(12) That the recovery of illegally levied duties, even if the fact itself be acknowledged by the Chinese authorities, is, if not impossible, at least very difficult, and in the best case attended with vexatious and unnecessary delay.

(13) That difficulties are frequently thrown in the way of foreigners asking for transit passes to bring down Chinese produce from the interior, and that in many instances such passes are either entirely refused or granted under conditions arbitrarily imposed.

(14) That on native produce, and especially on silk, duties are levied after sale and before the goods are delivered to the purchaser, and that the levy of these duties is farmed out to certain companies, which are enabled thereby to monopolize the trade in certain articles.

This list was followed on the 22d December by a note from Her Britannic Majesty's minister, Sir Thomas Wade, the chairman of the committee on likin, requesting the Yamèn to appoint a day for the discussion of the questions referred to in the list of grievances. The Yamèn allowed the whole question to drag, but finally replied that they begged the foreign representatives to wait until they had answered the note of November 22, 1879, before asking them to appoint a day for the discussion of the questions involved.

On the 19th January, 1880, the Tsung-li Yamèn sent its reply to the note of November 22, 1879. The Yamèn states that "more than half of the twenty grievances mentioned in their excellencies' note refer to the collection of the duties and transit dues. This Yamèn has three plans in mind upon the subject:

"(1) The present regulations may be carried into effect. The high provincial authorities will, on the one hand, be instructed by this Yamèn to direct their officials to act in good faith in obedience to them, and, on the other hand, your several consular officers and merchants will be instructed by your excellencies to scrupulously obey them.

"(2) The regulations heretofore agreed upon between this Yamèn and his excellency the British minister, Sir Rutherford Alcock, may be put in force.

"(3) The stipulations in the several treaties that foreigners shall not be subject to Chinese jurisdiction may be stricken out, and foreigners in China shall be subject to Chinese authority at all places and always, and be dealt with as Chinese subjects."

On March 20, 1880, Minister Seward writes to Secretary Evarts (No. 632) that no progress has been made in the negotiations. "The foreign representatives appear disposed to believe that the present moment is inopportune to press matters, because of the assumed strength of the reactionary party." Mr. Seward thinks it better to proceed with the discussion, and to draw away from it at a later moment if it should seem necessary for reasons to be advanced by the representatives.

On the 9th of April, 1880, the Tsung-li Yamèn express their willingness to meet the foreign representatives whenever convenient, and the latter fix the 20th instant. At this meeting the diplomatic body stated the conference was not so much to define the intent of existing stipulations as to reach a basis for further stipulations which would be satisfactory to both sides. The Yamèn agreed to take up the conference on these lines. (Minister Seward to Secretary Evarts, No. 665, April 23, 1880.)

Her Britannic Majesty's minister, Sir Thomas Wade, who had been chosen chairman of the committee on likin, after several conferences with the Tsung-li Yamèn on the question of the inland taxation of imports, reached the conclusion that China

would be willing to assent to the imposition of a fixed duty (higher than the existing tariff), on the payment of which the goods imported would be exempted from all further taxes of every kind, no matter into what part of the Empire they might be carried. The rate of duty would probably be between  $7\frac{1}{2}$  and  $12\frac{1}{2}$  per cent.

Sir Thomas expressed, however, the fear that likin would nevertheless be laid to a greater or less extent on foreign goods so long as it should be laid on native goods. (Minister Angell to Secretary Evarts, No. 58, November 30, 1880.)

On the 13th December, 1880, the Tsung-li Yamén wrote to Sir Thomas Wade and proposed that the duty on foreign imports be fixed at 11.5 taels ( $11\frac{1}{2}$  per cent.). On the 4th January, 1881, the foreign representatives rejected this proposition as unsatisfactory.

In the mean while the negotiations with the Yamén on the question of inland taxation of native produce under transit pass outward was being conducted by Mr. von Brandt. He had suggested to his colleagues that the Chinkiang rules of 1877 be taken as a basis, and he drew up the annexed scheme, which was accepted as a basis of discussion by the Yamén, who asked that time might be given them to refer the project to the high provincial authorities for their opinion on the question.

On the 27th September, 1880, the Tsung-li Yamén sent Mr. von Brandt the above-mentioned rules slightly amended, but in an interview which the German minister had with them on the 19th November they announced that the opposition of the provincial authorities to Rules II and III, 1 and 2, was so strong that they could not assent to them. The foreign representatives agreed, however (November 22), to urge these rules on the Yamén in a slightly-amended form, which they drew up in a meeting held January 4, 1881.

Mr. von Brandt seemed to be on the verge of a tolerably satisfactory agreement with the Yamén, when suddenly the Yamén came forward with so important and unacceptable modifications that the diplomatic body, in the meeting of July 11, 1881, agreed that it was useless to prolong negotiations on such a basis.

The Tsung-li Yamén insisted on two concessions: (1) Foreign goods admitted free of duty, shipped coastwise, should pay coast-trade duty; (2) Goods manufactured from native produce bought at the port should be subjected to the same restrictions as goods manufactured from produce brought down under transit pass.

While these negotiations between Mr. von Brandt and the Yamén were going on, Sir Thomas Wade was busy with the likin question. On July 7, 1881, he wrote to the Yamén that the foreign representatives could not accept the 10 per cent. import duty in lieu of likin, to which the Yamén had finally agreed, unless certain other provisions asked for in the collective note of the 22d November, 1879, were conceded. The diplomatic body was of opinion that if certain safeguards could be secured it would have been worth the while to have tried as an experiment, say for five years, the scheme proposed. But it deemed it necessary to have some sort of court of reclamation in which redress could have been claimed if likin had really been assessed. "But it must be confessed," writes Minister Angell to Secretary Blaine (No. 217, September 24, 1881), "that it is very doubtful whether for some time to come the Government can prevent the levying of likin. The people hate the tax and would gladly be rid of it. But it is extremely convenient for the local authorities, and the whole weight of the influence of the provincial officials will be thrown in favor of the continuance of it."

On August 1, 1881, the Tsung-li Yamén answered Sir Thomas Wade's note of July 7, and stated that while they had agreed to the 10 per cent. duty, still, in view of the foreign representatives insisting on certain other provisions for the protection of trade in the collective note of the 22d November, 1879, any provisional experiment of the 10 per cent. duty scheme would be premature.

After this little or no progress was made in the negotiations. On September 18, 1881, Mr. von Brandt writes to Prince Kung that he is willing to continue the negotiations if they are carried on with a view of removing the Yamén's complaint as to the illegal use of transit passes outward, and those of his colleagues and himself in regard to the illegal attempts of local authorities to ignore the stipulations of the treaties referring to the treatment of duty free foreign imports and native produce, and the use or exportation of goods bought or manufactured in the port.

Under date September 29, 1881, Prince Kung, replying to the above note, lays down as a general principle that "neither liberties nor restrictions on trade, inasmuch as they have not been expressly stipulated in the treaties, can be simply and positively claimed by way of inference by the one or the other party on the ground of one-sided opinions; far from this, it is rather necessary that an agreement should be arrived at on the ground of mutual deliberation before it is permitted to act accordingly." (Prince Kung to Mr. von Brandt, September 29, 1881.)

After this nothing of any importance has occurred in the way of a settlement of the pending difficulties. Minister Young, writing to Secretary Frelinghuysen under date June 13, 1884 (No. 462), remarks: "The whole (transit pass) system sadly needs revision and readjustment, but it is too much to expect that the Government of China will take official measures to put an end to the violation of the treaties by the local



officers in this direction until it has a practical assurance that foreign powers will no longer permit abuses of the privilege by their people."

Again, Mr. Young, under date August 6, 1884 (No. 492), writing to Secretary Frelinghuysen, remarks: "The general question of likin concerns all interests in China, and must be a matter of joint action. I doubt if there will be any settlement until we have a new treaty, and one which will be unmistakable as to all questions of manufacture and trade."

On the 30th of September, 1884, Mr. Secretary Frelinghuysen (No. 344), acknowledging Minister Young's dispatch No. 492, writes: "In view of the long-standing controversy as to likin \* \* \* it certainly appears desirable that some conclusion shall be reached which will remove the merits of the question from the domain of doubt.

"In case you find the way favorably open for the discussion of a special treaty engagement which shall concede what we have always claimed in the premises, you should use your good endeavors to promote such a result."

On April 27, 1885, the diplomatic body at Peking had a conference at which the transit-pass system outwards was discussed, as well as the practice of levying taxes on foreign goods at the ports of entry for municipal and other purposes. The failure of the Chinese Government to observe treaty stipulations in these particulars was admitted, but as all communications hitherto made to the Yamên had produced no result, it was deemed best that the representatives of all the foreign powers at Peking should refer to their respective Governments for instructions, with a view of securing a modification of the present treaties or their more rigid enforcement. (Mr. Chargé d'Affaires *ad interim* Smithers to Secretary Bayard, No. 11, May 1, 1885.)

Summing up the results of six years' negotiations between the foreign representatives at Peking and the Chinese Government, we find that with the exception of the more rigid observance of some of the treaty stipulations in regard to transit passes, China has not abandoned one of the rights she has always claimed, and that under existing treaties nothing materially advantageous to foreign trade can be arrived at.

The recent opium convention between Great Britain and China, by which a duty of 110 taels per chest of opium is to exempt the drug from all further taxation, is a step in the way of the 10 per cent. duty on foreign goods proposed by the conference in 1880. An opportunity will thus be afforded us, in case the arrangement comes into force, of ascertaining whether this system can prove a permanent solution of the likin difficulty. The experience of late years teaches us that as long as the provincial governments of China are strongly opposed to a measure, the central Government is not in a position to enforce it, and we know that any measure which will occasion a reduction in the revenues which they derive from likin has and always will meet with their determined opposition.

A partial solution of the difficulty might be the abolition throughout China of likin on miscellaneous goods, but, for the reasons offered above, this would very probably work in a most unsatisfactory manner, even if meeting with the full assent and aid of the Peking Government. This, moreover, would be a concession to foreign trade greater than could be expected, for it would only foster foreign trade to the prejudice of the native one, which would still be subject to the likin taxation.

The natural solution of the difficulty is in the adoption by China of Western financial and commercial methods, which will give that elasticity to her revenue system which it most utterly lacks at the present moment. Unless China adopts a liberal and progressive policy, and, putting aside some of her prejudices and dislike for ideas and methods of which she has not been the originator, freely takes from civilized nations the means which they can offer her of developing the natural resources of the land and increasing its wealth, all suggestions in the way of radically ameliorating her condition will prove useless.

All of which is respectfully submitted.

CHARLES DENBY.

#### No. 45.

*Mr. Denby to Mr. Bayard.*

No. 58.]

LEGATION OF THE UNITED STATES,  
Peking, December 22, 1885. (Received February 18, 1886.)

SIR: I have the honor to report to you that I have received a letter from an American merchant of Foochow, John P. Cowles, jr., in which he calls the attention of the legation to the fact that, desiring to export damaged brick tea, the customs had insisted on his paying the full ex-



port duty, after which he might move the authorities to get a refund proportionate to the deterioration.

Mr. Cowles contended that Article XLIV of the British treaty of Tientsin, which provides that "upon all damaged goods a fair reduction of duty shall be allowed proportionate to their deterioration," applied alike to imports and exports. The Chinese customs, however, hold that imports alone are covered by the words "all damaged goods."

On the 13th instant I addressed a communication to the Tsung-li Yamên on the subject, in which I quoted Article XLIV of the British treaty of Tientsin, claimed its application to imports and exports, and requested that the commissioners of customs at the treaty ports be instructed to levy duties on damaged goods, imports and exports alike, on the value of the goods.

To this the yamên replied, under date of the 18th instant, stating that Article XLIV of the British treaty of Tientsin can apply only to imports, as the long journey by sea to which foreign goods are subjected prior to their arrival in China exposes them to frequent deterioration, whereas exports being only conveyed a short distance before exportation do not suffer damage. On these grounds the Yamên refused to comply with the request made in my dispatch of the 13th.

Mr. Cowles desired that a general order be given which would relieve him from having to pay full duty on damaged exports if he should desire to export such a class of goods. Whenever, therefore, the request is made to this legation to obtain a refund of duties paid on damaged exports, I will again submit the whole question to the Tsung-li Yamên.

I have, &c.,

CHARLES DENBY.

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No.-46.

*Mr. Denby to Mr. Bayard.*

No. 81.]

LEGATION OF THE UNITED STATES,  
Peking, February 9, 1886. (Received April 7.)

SIR: I have the honor to report that lately there was a slight *emeute* at Chinkiang.

Certain missionaries of the Methodist Episcopal Mission had made contracts under which certain houses were to be built. The contractor undertook to throw up the job. The missionaries held him to his agreement. The contractor, unable to get any more money, undertook to take away the blinds in the veranda. Mr. Longdon, one of the missionaries, refused to allow this to be done. The contractor then ordered his men to bind the missionary. Mr. Woodville, another missionary, came to Mr. Longdon's rescue. They were both bound and taken to the tipao. The consul, Mr. Bergholz, hearing of this, communicated with the taotai, and the tipao then released the missionaries. Mr. Bergholz demanded that the carpenters should be punished. The taotai declined to punish them until he could see the accounts of the parties. Mr. Bergholz refused to comply with this demand. The matter was brought to the attention of the acting consul-general, Mr. Smithers. Mr. Smithers procured the British and American admirals to send men-of-war to Chin-Kiang. There being no American man-of-war convenient, the British Admiral sent H. M. S. Wanderer and the

United States vessel Marion shortly followed. Upon being informed that two ships were ordered to Chiukiang the taotai ordered the offenders to be arrested and canqued in front of the United States consulate. Beside this, they each received three hundred blows. The affair is now over and all is quiet.

I have not received any official account of the affair, but I send a statement of it now for fear of rumors reaching you before the true account does.

I may mention in this connection that the treatment of the Chinese question by the President in his message has been received with warm encomiums by the English press in China. The action of the Chinese in New York commending the energetic conduct of the Administration is received with great satisfaction. But it is argued, with some show of truth, that Americans will be hampered in China when they have grievances by the outrages committed in the Western States and Territories. Accounts of these outrages are all published in the Chinese papers. \* \* \*

I had a discussion with Li Hung Chang about these difficulties, in which I tried to explain to him our dual form of government, and assured him that the United States Government would do all that it could to protect the Chinese against violence.

I have, &c.

CHARLES DENBY.

No. 47.

*Mr. Denby to Mr. Bayard.*

No. 89.]

LEGATION OF THE UNITED STATES,  
*Peking, February 15, 1886. (Received April 13.)*

SIR: I have the honor to report that the dean of the diplomatic corps, Mr. von Brandt, with the concurrence of his colleagues, has for some weeks been pressing on the Tsung-li Yamên questions relating to inland taxation on foreign goods.

Mr. von Brandt has insisted that the present system should be modified in two particulars—

(1) That there should be published lists of the likin and other tax stations, and of the tariffs at such stations.

(2) That differential duties imposed on foreign goods sent inland under transit pass, after their arrival at the place of destination, should be abolished.

In a communication to Mr. von Brandt the Yamên concedes the justice of the second proposition, and further says: "We shall therefore without delay enjoin upon the provincial authorities to take measures with a view to a better regulation of this matter, and in order to avoid malpractices and irregularities at the likin-duty offices, to prepare and publish complete lists of the places where likin stations exist and of the tariffs which are in use by them."

The diplomatic corps meets on the 16th instant to further consider this question.

I have, &c.,

CHARLES DENBY.

No. 48.

*Mr. Denby to Mr. Bayard.*

No. 93.]

LEGATION OF THE UNITED STATES,  
*Peking, February 17, 1886. (Received April 26.)*

SIR: I have the honor to report that I have requested the acting consul general to notify the consuls that the Tsung-li Yamèn has consented to instruct the local authorities to publish lists of the likin stations and other tax stations in the interior, as well as the tariff or rate of taxation on goods at those stations. Also that the Yamèn has consented to abolish differential duties imposed on foreign goods sent under transit pass after their arrival at the place of destination.

I have also directed him to notify the consuls to report any breach of these new regulations, to act with the consuls of other nationalities in seeking redress at the hands of local authorities and in seeking redress to make active personal interposition with the local authorities rather than to rely on mere written complaints.

I have, &amp;c.,

CHARLES DENBY.

No. 49.

*Mr. Bayard to Mr. Denby.*

No. 45.]

DEPARTMENT OF STATE,  
*Washington, March 4, 1886.*

SIR: I have received your dispatch No. 58, of December 22, 1885, touching the claim of Mr. John P. Cowles, jr., for reduction of duty on damaged exports and your note to the Yamèn upon the subject.

If Mr. Cowles has rights under the forty-fourth article of the British treaty of Tientsin and under the favored nation clause which extends the benefits of other foreign treaties to our citizens, his rights should if possible be wholly subjected to and defined by the treaty provision to which he appeals. Now the forty-fourth article expressly contemplates the case of disputes of interpretation arising thereunder and provides a mode of settlement. It says:

If any disputes arise they shall be settled in the manner pointed out in the clause of this treaty having reference to articles which pay duty *ad valorem*.

The clause thus referred to appears to be article 42 of the British treaty of Tientsin, which reads thus:

XLII. With respect to articles subject, according to the tariff, to an *ad valorem* duty, if the British merchant cannot agree with the Chinese officer in fixing a value, then each party shall call two or three merchants to look at the goods, and the highest price at which any of these merchants would be willing to purchase them shall be assumed as the value of the goods.

The dispute raised by Mr. Cowles appears to be of this character, because touching only the amount of duties to be paid. It does not appear that the mode of settlement prescribed in the Anglo-Chinese treaty has been resorted to. On the contrary, it seems to be ignored and excluded by the requirement of the Chinese customs authorities that Mr. Cowles should pay under protest full duties as charged, and then appeal.

The Chinese contention that the provisions of article 44 do not apply to duties on exports is not regarded as sound. There are many provisions in the Anglo-Chinese treaty in relation to tariff duties, but there is nowhere in the body of the treaty any discrimination between import and export duties.

The assessment and collection thereof appear to be the same in either case. Thus, article 24 provides that "the duties prescribed by the tariff" shall be paid "on all merchandise *imported or exported*"; articles 39 and 41 show that the words "dues and duties" are applied indiscriminately whether the cargo be *landed or shipped*—that is, imported or exported. There is but one tariff annexed to the treaty and that contains both import and export dues.

It appears to be argued by the superintendent of the Chinese customs that the provision for rebate of duties in case of damage to the goods can only apply to imports, as they alone are liable to injury by reason of sea-transit. The very case under consideration shows the fallacy of this, because we have a positive example that teas (and other goods) destined for export may and do become damaged by water-transit during the long domestic journey in river junks to the port of shipment. It is not shown to have been the intent of article 44 that a reduction of duties should only be allowed when the damage is caused in a particular way, by salt water on the high seas and not by fresh water in the rivers. The intent seems to have been that duties are to be exacted according to the tariff upon ordinarily marketable goods, and that damaged goods may not justly be charged the same high duties as undamaged.

However this may be, one thing is clear, that a dispute has in fact arisen as to the amount of duty to be paid on a certain lot of damaged brick tea passing through a Chinese custom-house and dutiable under the tariff, and that article 44 prescribes in a particular manner. It is not shown that recourse to this mode of settlement had been had or is permitted.

I am, &c.,

T. F. BAYARD.

No. 50.

*Mr. Denby to Mr. Bayard.*

No. 109.]

LEGATION OF THE UNITED STATES,  
*Peking, March 10, 1886. (Received April 26.)*

SIR: I have the honor to forward to you herewith copy of a telegram which I have received from the acting consul-general at Shanghai, stating that he was in receipt of a telegram from our consul at Canton, saying that much excitement prevailed at that place on account of the President of the United States having refused to entertain the claim for indemnity presented by the Chinese minister for losses sustained by Chinese during the recent anti-Chinese riots.

On receipt of the above I addressed a dispatch to the Tsung-li Yamén, requesting them to take the necessary measures for preventing any trouble at Canton. I expressed the horror which I felt at the recent outrages in America, but a repetition of the same thing on the part of the Chinese would neither be a justification nor lead to a solution of the difficulty. I concluded by expressing my confidence that a satisfactory solution of the question would be speedily reached by following the ordinary diplomatic methods. I have not yet received the answer of the Yamén, but I will forward it as soon as it comes to hand.



Further information received from a private source leads me to believe that the danger of an attack at Canton may have passed. It is difficult, however, to be sure of a peaceful solution of the difficulty, as the population of Canton is the most excitable and troublesome of all of the treaty ports; and in the present case the excitement is kept up by telegrams from the Chinese in America, which are posted throughout the city.

The U. S. S. Monocacy, which has been stationed at Tientsin during the winter, and on board of which I expected to visit the treaty ports, has received orders to proceed at once to Canton, where there is at present only one foreign gunboat stationed.

I have, &c.,

CHARLES DENBY.

[Inclosure 1 in No. 109.]

SHANGHAI, March 6, 1886.

DENBY, *American Minister, Peking* :

Seymour telegraphs excitement increasing Canton. Hong-Kong papers publish telegrams about President refusing entertain claim indemnity, and Viceroy's telegram Chinese legation Washington intimating reprisals unless indemnity allowed.

SMITHERS.

[Inclosure 2 in No. 109.]

*Mr. Denby to foreign office.*

No. 4.]

MARCH 7, 1886.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES: I have the honor to state that I have received from the consul-general of the United States at Shanghai a telegraphic dispatch, stating that there is great excitement at Canton against Americans, owing to the late outrages in America, and that the Viceroy has telegraphed the Chinese legation at Washington, intimating the intention to inaugurate in China a system of outrage and violence. I trust that this telegram has no real foundation.

I beg leave to represent that outrage and wrong against innocent people do not constitute any answer or justification for other wrongs. While no one regrets more than I do the perpetration of injuries on the Chinese, yet it is plain that this subject should be settled by the proper authorities of the two Governments, and that further violence or outrage will serve simply to complicate such settlement.

As a matter of precaution I request your imperial highness and your excellencies to take proper and immediate steps to quiet the public mind and to prevent any recourse to violence on the part of either the authorities or the people. Two great nations like your honorable country and mine can certainly, with dignity and moderation and by the use of diplomatic methods, settle and arrange all questions that may arise between them.

I have no advices from the United States as to the action of the Government, and I beg leave to express the hope that some satisfactory solution will be found for the present complication, and the traditional friendship between the two nations will not be disturbed.

I have, &c.,

CHARLES DENBY.

No. 51.

*Mr. Denby to Mr. Bayard.*

No. 115.]

LEGATION OF THE UNITED STATES,  
*Peking, March 24, 1886. (Received May 5.)*

SIR: On receiving a copy of the late Report of the Director of the Mint I noticed that there was no communication therein relating to the money of China; I therefore directed the secretary of this legation to prepare a report on that subject. He has discharged this duty very thoroughly and with ability. I transmit herewith the memorandum prepared

by him. \* \* \* There are vast numbers of private banks and exchange shops in China. The value of ordinary cash varies daily. For some weeks now the Mexican dollar has only been worth at Peking from 85 to 90 cents reduced to cash. Slight depreciation in ordinary trade is not regarded, but when the depreciation reaches 10 per cent. a demand in all transactions is made and enforced for payment of the deficit. It is anticipated that the demand for silver caused by the revival of the spring trade will enhance its value and bring the Mexican back to par.

I have, &c.,

CHARLES DENBY.

[Inclosure 1 in No. 115.]

From the earliest times (circa 1000 B. C.) the Chinese have made use of copper coin to the nearly complete exclusion of gold and silver, although these two last metals have at different times been used, but rather as bullion, just as silk and grain have been. The copper cash in fact is the monetary unit of China. The issue of this copper coin was never limited by law, but was cast in large or small quantities, according to the requirements of the Government. The value of the piece of money was determined not by its relative value to any other precious metal, but by its purchasing value determined in grain, cloth, &c. As, however, the Government officers were then as now paid partly in grain, the use of money was at first very limited. Years of famine gradually increased its quantity, as it was supposed that by throwing quantities of cash in the market the sufferings of the people might be alleviated.

In the sixth century B. C. a fractional copper currency was made by casting large copper cash, the value of which was fixed at 50 of the small ones.

In the third century B. C. we hear of serious troubles, which occurred through the Government endeavoring to make the value of the fractional coins equal to that of the large ones.

In the reign of Han Wenti (B. C. 179) the Emperor, to put a stop to false coining, which has always been an easy operation in China on account of their system of casting, left the people free to cast their own money. This measure proved, however, entirely inadequate, and the decree was soon repealed. In fact, counterfeiting was carried to such an extent that the people in parts of the Empire gave up using coined money and returned to barter. In the reign of Wenti (B. C. 117) a state mint was established at the capital, and all the metallic currency previously in use was withdrawn and recast. Moreover, as a means of stopping counterfeiting, the most expert forgers were taken into Government employ to work in the mint.

The amount of money coined from this date down to the commencement of the Christian era is stated to have been 280 billions of cash.

In the sixth century A. D. we hear of an attempt to supersede copper money by iron money, but after ten years' trial it had to be discontinued, the Government and private individuals having cast such vast quantities of it that it retained no value. At about the same period one of the emperors of the northern Wei dynasty fixed a standard for money by decreeing that two thousand pieces should be equivalent in value to one piece of silk, which commodity had nearly a uniform value throughout the realm. This is a remarkable attempt to solve a much-vexed question, which has frequently received the attention of political economists in other countries.

In the early part of the ninth century an attempt was made to issue paper money in the form of certificates of deposit. This plan did not, however, succeed, most likely owing to the credit of the state not being good enough to attract depositors.

In the tenth century a double standard was tried. A subsidiary coin of iron, varying from one-tenth to one-fifth of the value of the copper cash, was issued by the Lung emperors.

The nature of the metals used in these coinages became rapidly a source of trouble and difficulties. No constant legal ratio could be kept between them. Counterfeiters, speculating on the constantly varying rates, coined the cheaper currency in order to exchange it for the dearer, and generally the difference between the two was from 100 to 200 per cent. As a remedial measure the Government ordered that in certain parts of the Empire only copper money should be a legal tender and in others only iron money. By this means speculation was greatly diminished, but the system was far from being an unqualified success.

Through the exportation of money from China, which at this time had become very heavy, the currency in circulation was no longer sufficient for the requirements of the state. The standard was lowered, and China had again recourse to paper money to supply her wants. Originally in the nature of government bonds redeemable in three years they were secured by cash in the treasury. The issue of notes was gradually increased to such an extent that they became greatly depreciated and finally brought about the bankruptcy of the state.

Passing over the next few centuries, during which the Mongol and Ming dynasties applied the same methods with like ruinous results, we will briefly examine the monetary system of the present dynasty. The imperial statutes (*Ta Ching li li*) regulate the mode of casting cash and the number of mints. The latter are under the control of the provincial governors, subject to the orders of the board of revenue (*Hu Pu*), which controls the amount of currency to be put in circulation, so that "the successive supplies of coin may be issued according to the market prices of gold, silver, grain, and other articles in general use and consumption." (Book IV, section 118.)

The copper cash, which are still, under this dynasty, the only coin in circulation, have not escaped the fate of those of earlier dynasties; they have been so debased that at times, as under the *Tao Kuang* reign (1821-'51) it would not even remunerate forgers to counterfeit them.

In the *Hsien T'eng* reign (1851-'61), the central Government being cut off from its supplies of copper (which mostly comes from the central and southwestern provinces) by the *Tao-Ping* rebels, had recourse to issuing large coins equal to ten of the ordinary small cash. Iron and zinc coins were also cast in large quantities, and in 1854 large copper coins of the nominal value of 50, 100, 500 and 1,000 units were issued in the north. False coinage brought about a rapid depreciation of the larger coins, so that finally nobody would take them at any price. Those of a nominal value of 10 remained in circulation, and constitute to the present day the currency of the capital. Their value, however, has sunk to that of 2 of the small cash, and an ounce (*tael*) of silver exchanges for about 700 of them.

In 1853 paper currency was also revived. Notes of two kinds, cash notes and silver notes, were issued by the board of revenue, and forced into circulation. Their value depreciated so rapidly that in 1861 they were at a discount of 97 per cent.

At Peking and in many other cities throughout the Empire paper notes are issued by private banks—the notes circulating only in the locality where they are issued. As these banks are not under Government control and can issue notes far in excess of their capital, failures are of frequent occurrence. A certain number of them, however, are of old standing and of good credit, doing a large business as Government bankers, and also with the general public, from whom they receive large deposits.

One thousand of the nominal cash of Peking (or a *tiao*) are theoretically equal to 1 ounce of silver (or a *tael*). The real value of the 10-cash piece being only 2 cash, 50 Peking cash make a *tiao*, and a *tael* is counted as equal to from 12 to 14 or 14½ *taios*, according to the exchange which varies daily.

Twenty miles from Peking the big cash are no longer in circulation; small nominal cash are used, 1,000 of which make a *tiao* and 3,000 of which are equal to a *tael* of silver. The varieties of cash and their values are endless. Mr. E. Colborne Baber of her Britannic Majesty's consular service, says (*Journey of Exploration in Western Ssu Chuan*, p. 104):

"Soon after leaving *Hsi-li Chow* we found small and debased cash in use, 1,400 of which the traveler may obtain for a thousand ordinary cash; when he finds it necessary \* \* \* to get rid of the local coinage on leaving the district in which it circulates, he is obliged to pay 1,500 debased cash for a thousand current coins of the realm \* \* \* At *Ti-ko* the circulating medium has fallen to a depth of degradation which almost outvies comparison. There the local cash exchange for silver at the rate of 40,000 per Chinese ounce; in other words, 150 of them are equivalent to 1 British farthing."

If we examine, now, the facts in regard to the present use of silver, we find that the value, weight, and standard of the ounce of silver (*tael*) varies nearly as much as does the copper cash. These facts have been so fully set forth in Minister George F. Seward's Memorandum on the Currency of China, and Mr. von Brandt's Memorandum on Chinese Currency, that it is more than useless to dwell on the question. The following tabulated statement of the value of the several local *taels*, as compared with the *Haikwan* and *Ku-ping* scales will dispose of the question.

| Locality.       | 100 Hai-kwan taels equal— | 100 Ku-ping taels equal— |
|-----------------|---------------------------|--------------------------|
| Newchwang ..... | 108.5.0                   |                          |
| Tientsin .....  | 105.0.0                   | 103.4.0                  |
| Cheefoo .....   | 104.4.0                   |                          |
| Shanghai .....  | 111.4.0                   | 101.6.5                  |
| Chinkiang ..... | 104.2.2                   |                          |
| Hankow .....    | 108.7.5                   | 101.6.5                  |
| Kinkiang .....  | 106.3.1                   |                          |
| Ningpo .....    | 105.3.8                   |                          |
| Foochow .....   | 101.4.5                   | 101.1.4                  |
| Amoy .....      | 110.0.0                   |                          |
| Swatow .....    | 110.0.0                   |                          |
| Canton .....    | 111.1.1                   |                          |



I must not omit to mention that these rates of exchange are arbitrarily imposed by the provincial authorities, or Government bankers, and are higher than they ought to be as compared with the Ku-ping or Haikuan taels, in which they make their returns to the board of revenue. In fact, the profits which the provincial authorities derive from this source are one of their chief perquisites, without which, they say, they could not live. The fear of seeing this source of revenue dried up if any uniform monetary system were introduced in China, is one of the chief if not the chief objection which the governing class have against such an innovation.

In 1877, while negotiations were under way for a settlement of the Yunnan outrage claims, negotiations which resulted in the Cheefoo convention lately ratified by Great Britain, the foreign representatives in China addressed to the Government an identical note, asking whether any steps could be taken to establish a mint and a currency of a uniform character. On December 19, 1877, the foreign office sent a reply which disposed of the question summarily. In it, it is stated, that "If China should decide upon a unit of money and establish a mint according to foreign fashion \* \* \* the difficulties attending its general circulation would be very many, amounting, indeed, to insurmountable obstacles. Its establishment is not, therefore, considered practicable."

This decision of the Tsung-li Yamen was unquestionably dictated by the reasons which we have stated above, for the fondness of the official class for the prevailing monetary system, or rather absence of system, appeared so definite that the German minister, Mr. von Brandt, writing on the subject in February 1878, says:

"The faint hope that the intricate question of Chinese currency might be settled has therefore to be abandoned, and it becomes the duty of those charged with the protection of the commercial interests of their countries to devise means by which the evils resulting from the present state of affairs may be, if not entirely removed, so at least mitigated, as far as possible." (Memorandum on Chinese Currency, p. 1.)

Minister Seward, writing at the same time, is less despondent, and he thinks that "it may be predicted with safety that a coinage system will be adopted within a near period. I do not say within five or ten years, or attempt to anticipate the date. It is coming to be a felt want, and such wants create their remedy." (Memorandum on Currency of China, p. 10.)

Eight years have passed since the mint scheme was abandoned, and nothing on the part of the Chinese Government can lead us to suppose that they are thinking any more seriously of establishing a coinage system than they were in the days of Gengis Kahn.

W. W. ROCKHILL,  
*Secretary of Legation.*

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No. 52.

*Mr. Denby to Mr. Bayard.*

No. 117.]

LEGATION OF THE UNITED STATES,  
*Peking, March 29, 1886. (Received May 17.)*

SIR: I have the honor to inclose herewith for your information copy of a dispatch addressed by the Viceroy at Canton to our consul, Mr. Seymour, concerning the measures which he (the Viceroy) had taken to prevent any outbreak of popular indignation on receipt of news of the anti-Chinese riots in the United States, and discussing the question of indemnity.

This legation has requested Mr. Seymour not to enter into any discussion of the subject of indemnity or of the question of the outrages in general, this being at present a matter of negotiation at Washington.

I have, &c.,

CHARLES DENBY.

G F R



[Inclosure 1 in No. 117.]

## UNITED STATES CONSULATE, CANTON, CHINA.

*An official communication from his excellency Chang, governor-general of the two Quangs, to Hon. Charles Seymour, United States consul, Canton, relative to anti-Chinese riots in San Francisco.*

[Translation.]

I have to reply to his honor the consul's dispatch [herein the dispatch is quoted *verbatim et literatim*] of which I, the Viceroy, have made a full perusal. On a thorough examination, the telegram published in Hong-Kong papers is hard to believe. Relating to this case I, the Viceroy, had previously sent a telegram to his excellency Juan, Chinese minister to America, requesting him to exert his capability in consulting with the foreign office to discover the rioters, to indemnify the claims, and to protect the Chinese subjects. There was nothing said of reprisal. I, the Viceroy, have heretofore been aware of the exceedingly friendly relation maintained between your honored country and mine, and also of the utmost equity and justice with which your honored country in a polite manner manages affairs. So, on a former occasion, there was an official communication from me begging his honor the consul to telegraph to your honored country to promptly and satisfactorily adjust the matter with the wish of nothing more than to cause the Chinese and American merchants to live in mutual tranquillity and to manifest in a higher degree the existing friendliness.

It will be seen on examination that I, the Viceroy, recently have adopted many ways in the line of protection, and in guarding against and suppressing any outbreak, from which my sincerity in treatment is wholly apparent. As to what the London telegram states, there is no truth in it, although rioters in San Francisco are numerous, yet the proclamations of your honored country prohibiting and punishing the rioters have already come to my knowledge. For instance, your honored country has not justifiably adjusted the matter, and, being called upon on several times, refused to adjust the affair with justice. Our Government will desire an upright and justifiable way of managing the affair; on hearing the subject clearly memorialized by his excellency the minister, and would not tolerate the common people seeking any occasion for disturbance. My Government's humanity is so extensive and far-reaching there would never be any such act of slaughter. I, the Viceroy, having pure minded and clear perception, would not bring about any such uncalled for action. Just as a foreign telegram came stating that your Government had ordered the Senate to settle the indemnity in the Lock Spring case, so this London telegram states, that because your Government had refused, reprisals are threatened at Canton. Take this for an inference, it can be deduced that it is a piece of unauthentic talk. After the affairs had taken place in San Francisco, foreigners in China have been somewhat cautious, and on account of rumor being circulated to and fro, and when it is circulated to a further extent, translators of English would make all the more mistakes, so it reaches to this point, which is not at all worthy of credence. However there ought to be a prompt settlement of the lives and property of those Chinese subjects who have suffered from the calamity, and also to adopt good measures for meeting contingency that comes after in order to be in accordance with reason and common sense.

The Irish party or faction, it appears, has been a long time naturalized as American citizens, so they are really your honored country's people. Now, if that faction is allowed to act obstinately and brutally treat others; to force the Chinese laborers out of work, and injure their lives and property, without the least scruple or fear, when this is circulated to the different countries, people will regard the official orders of your honored country's high officials as having no force and having no power over the natives; is this not still more deeply to be regretted? Although I, the Viceroy, can prohibit any reprisal, but if the affairs in San Francisco are not satisfactorily adjusted the feeling of the people would not be contented; when their feeling is not satisfied, although they dare not seek any occasion for disturbance, there would be many hindrances placed against the affairs that are to come. It is requested that your honor the consul will again forward a telegraphic message to the consul-general to telegraph to your honored country to adjust the matter satisfactorily, for which thanks are rendered. As to measures for guarding, protecting I, the Viceroy, am still giving proper orders.

With compliments, &c.

Quang Si, twelfth year, second moon, sixth day (March 11, 1886).

## No. 53.

*Mr. Denby to Mr. Bayard.*

No. 132.]

LEGATION OF THE UNITED STATES,  
*Peking, April 19, 1886. (Received June 28.)*

SIR: As a further acknowledgment of your dispatch No. 45, of the 4th March last, touching the claim of John P. Cowles, jr., of Foochow, for reduction of duty on damaged exports, I have the honor to state that no actual case has as yet arisen, but if one should arise I will insist on compliance with the views stated in your dispatch of which the Tsung-li Yamên is aware by a note which I sent it on the 13th December, 1885, a copy of which I now inclose.

I have, &amp;c.,

CHARLES DENBY.

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[Inclosure 1 in No. 132.]*Mr. Denby to the foreign office.*

No. 9, 1885.]

PEKING, December 13, 1885.

YOUR EXCELLENCIES: I have the honor to bring to the notice of your imperial highness and your excellencies a question which has been submitted to me by an American merchant at Foochow in the matter of the construction put by the customs authorities at that port on the forty-fourth article of the British treaty which relates to damaged goods.

The article reads—

“Upon damaged goods a fair reduction of duty shall be (made) allowed proportionate to the deterioration. If any disputes arise they shall be settled in the manner pointed out in the clause of the treaty having reference to articles which pay duty *ad valorem*.”

The language cited in this article is unmistakable as to the class of goods referred to. It refers to damaged goods and none others, and which I understand to mean imports as well as exports.

The representation made to me from Foochow shows that the commissioner of customs interprets the said article of the treaty to mean only *damaged imports* and not exports. Such an interpretation appears to me to be decidedly unfair and unjust, and is not warranted by the language of the article cited.

The said merchant further states that he applied to the customs for permission to export some damaged brick tea at the proportionate reduction of duty, which application was refused, the commissioner of customs stating that full duty must be paid, and then he could move the authorities to obtain a refund for amount of damage the tea had sustained. I believe at some of the treaty ports a reduction is made on damaged exports in proportion to the amount of damage the goods have sustained, and I will thank your imperial highness and your excellencies to issue instructions to all the commissioners of customs at the treaty ports that the duties on damaged goods, imports and exports, shall be paid on the value of the goods, and not to demand the payment of full duties, which will save the trouble of afterwards applying for a rebate.

I have, &amp;c.,

CHARLES DENBY.

## No. 54.

*Mr. Denby to Mr. Bayard.*

No. 134.]

LEGATION OF THE UNITED STATES,  
*Peking, May 14, 1886. (Received June 28.)*

SIR: I have the honor to forward you herewith an extract from a Shanghai paper which describes the present condition of the Chinese northern fleet, known as the Pei-Yang squadron.

The German instructors who for the last year and a half have had control of the northern squadron are rapidly being retired. Captain Lang, R. N., to whose efforts the Chinese navy already owes so much, has returned to China and reassumed direction of the fleet.

At present attention is much attracted to the fleet on account of the tour of inspection which the Seventh Prince (the father of the Emperor) is about to make of it, and the maritime defenses in the north.

You will remember that the Seventh Prince was appointed last winter president of the new board of admiralty. He is expected to leave Peking to-day.

This journey is significant as being the first one of the kind which any member of the imperial family has ever undertaken.

Besides visiting Tientsin and Taku, he will go to Port Arthur and Cheefoo, possibly even farther south.

I have, &c.,

CHARLES DENBY.

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[Inclosure 1 in No. 134.]

#### THE CHINESE PEI-YANG SQUADRON.

A correspondent in a northern port writes:

The rumors about the movements of the Pei-Yang squadron are numerous, but I have reason to believe that the following statements are correct: The powerful iron-clads Ting-Yuen and Chin-Yuen, accompanied by the swift iron-clad torpedo cruiser Tsi-Yuen, arrived at Taku about the middle of April, where they were joined at the end of the month by the Armstrong cruisers Yang-Wei and Chao-Yung, which arrived from Chemulpo via Cheefoo and Port Arthur. The Armstrong cruisers had been stationed during the winter at Chemulpo, the seaport of the Korean capital, Seoul, where their gallant commanders, courteous officers, and well-behaved crews have always been great favorites.

Some of the commanders and officers of the northern squadron have served in foreign navies, while many of the junior officers have gone through a course of studies abroad, at the command of his excellency Li Hung Chang, and considering the many opportunities your present correspondent has had of forming a judgment of the *personnel* and *matériel* of the Chinese northern squadron, he does not hesitate to assert that the fine fleet known as the Pei-Yang squadron is certainly officered and manned by the *élite* of the Chinese navy.

Admiral Lang has again taken charge of the northern fleet, and he has not been idle; since he has done so he and his staff have been round already on a tour of inspection of the northern naval and military stations. Besides the English admiral and his staff, there are several other officers of foreign nationality on board some of the vessels, as instructors in the several departments, and it is very likely that if the people on board the Pei-Yang squadron were called upon to show their teeth to an enemy they would render a different account of themselves than the unfortunate crowd did at Pagoda anchorage.

Two French engineers arrived from Port Arthur at Taku by the Armstrong cruiser Yang Wei; they probably not only have carefully studied the harbor works and fortifications of Port Arthur, but also have been afforded an additional opportunity of studying the armament of the Armstrong cruisers, and if they make conscientious reports to their Government, perhaps they will advise them to henceforth keep on friendly terms with "The Middle Kingdom," because there can hardly be a doubt now that the Pei-Yang squadron alone is quite capable of coping single-handed with any other fleet at present stationed in Eastern Asiatic waters. The Chinese authorities are to be congratulated on affording the representatives of their late French foes an opportunity of investigating the new Chinese naval stronghold, Lu Shun Kao, otherwise known as Port Li or Port Arthur, to convince them that owing to the genius of the director of fortifications, General von Hanneken, Port Arthur, if attacked, would not be easily taken. The director of the harbor works at Port Arthur, Mr. Engineer Samwer, and the superintendent of the Port Yuan Taotai, are busily engaged in transforming the place to such an extent as to afford a safe basis of operations for a much larger fleet than the Pei-Yang squadron. I think the commander-in-chief, Admiral Ting, as well as Admiral Lang, and the viceroy, Li Hung-Chang, must be highly congratulated on the efficient state of the Pei-Yang squadron, the most powerful branch of the imperial Chinese navy, which the father of His Majesty the Emperor, the Seventh Prince, is about to inspect conjointly with his excellency the Viceroy, accompanied by Mr. Commissioner Detring, at an early date, I believe.



## No. 55.

*Mr. Denby to Mr. Bayard.*

No. 137.]

LEGATION OF THE UNITED STATES,  
*Peking, May 24, 1886. (Received July 26.)*

SIR: I have the honor to forward you herewith a translation of the Chinese text of the commercial convention recently concluded between France and China.

The endless formalities and restrictions which this convention throws in the way of trade between Annam and China must crush any commerce which may spring up between the two countries.

With the exception of the neutral zone, which is not mentioned in this convention, it is substantially the same as that which was negotiated by Mr. Bourée in 1882, and which the French Government would not ratify.

I have, &c.,

CHARLES DENBY.

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[Inclosure 1 in No. 137.—Translation.]

DRAFT OF TRADE REGULATIONS FOR THE ANAM FRONTIER JOINTLY DETERMINED  
ON BY CHINA AND FRANCE.

Whereas, in the sixth article of the treaty drawn up by the Government of China and the French Republic, upon the 27th day of the fourth moon of the eleventh year of Kuangshii, corresponding to the 9th day of June, 1885, by western reckoning, it is stated that "Regulations for the conduct of overland trade between Tongking and the Chinese provinces of Yun-Nan, Kuang-Si, and Kuang-Tung will be jointly discussed and concluded by commissioners appointed by the two powers, and will form a supplement to the present treaty"; and whereas in the tenth article of that treaty it is stated that "The provisions of former treaties and regulations agreed to by China and France, except in so far as they are modified by the present agreement, will continue to retain their original validity," the plenipotentiaries of His Imperial Majesty the Emperor of China and the President of the French Republic, that is to say, the plenipotentiary of His Majesty the Emperor of China, Li, grand tutor of the heir apparent, grand secretary of the Wen-hua Throne Hall, minister superintendent of trade for the northern seaboard, joint commissioner of admiralty, governor-general of Chihli, and a member of the first rank of the third grade of hereditary nobility with the laudatory appellation Su-i; and the plenipotentiary of the President of the French Republic, Cogordan, minister plenipotentiary to China, decorated with the cross of the Legion of Honor of the fourth class, and the star of the second class of the order of the Crown of Italy, and bearing the rank of under secretary of state for foreign affairs, together with Bruwaert, consul of the first class, assistant commissioner for treaty negotiations, decorated with the order of Gustav of Sweden of the third class, and the order of Leopold of Belgium of the fifth class, after having communicated to each other their respective full powers, and found them to be in due form, have accordingly concluded the following articles:

ARTICLE I.

It is arranged between the two Governments that whereas in conformity with the provisions of Article V of the new treaty, two places should now be indicated, one some point above Pao Shêng (Laokai), the other some point to the north of Langson, at which the Chinese Government shall establish customs for purposes of trade, and shall consent to the (immediate) appointment of consuls by the French Government at those places, and these French consuls shall enjoy the same privileges and advantages of the most favored nation. Inasmuch as at the present date of signature the boundary commissioners of the two Governments have not yet determined at what point north of Langson a trading center should be opened, it shall be incumbent on the Chinese Government to select such place in consultation with the French representative in China within the present year. As regards the place to the north of Laokai to be opened to foreign trade, this shall also be fixed upon in consultation when the frontier of the two countries shall have been inspected and determined.



## ARTICLE II.

The Chinese Government is at liberty to establish consuls at Hanoi and Haiphong, and shall hereafter consider with the Government of France the appointment of consuls to reside at the large cities or towns in other parts of Tongking. The treatment accorded by France to such consuls and the privileges and advantages enjoyed by them shall be similar in every respect to the treatment and privileges accorded by France to the consuls of the most favored nations. They shall transact their official business with the high officer (or officers) appointed by the French Government as "protector" (or protectors).

## ARTICLE III.

Both Governments undertake that upon the arrival of a consul appointed by either power to take up his official residence, assistance shall be rendered by the local authorities of either Government in the establishment or preservation of the public offices in which he shall reside.

When French merchants or citizens visit the places open to trade on the Chinese frontier, the action taken shall be in all cases that laid down in the seventh, tenth, eleventh, and twelfth articles of the treaty between France and China dated the 27th day of June, 1858.

When Annamese subjects visit the places open to trade on the Chinese frontier, the same treatment shall be accorded them by the Chinese Government.

## ARTICLE IV.

Chinese subjects shall be permitted to purchase land, rent houses, or establish places of business or warehouses in any part of Annam, and shall receive full protection for their persons and property. They shall on no account be treated with harshness or tyranny, nor shall any restraint be put upon them; there shall be no difference whatever between the treatment accorded to them and that enjoyed by the subjects of the most favored Western nation. The official or private correspondence and telegrams of Chinese officials and merchants dispatched or received through the French postal or telegraph offices shall be sent and delivered in the same manner as other correspondence and shall not be subjected to any hindrance. The treatment of French citizens by the Chinese Government shall be equally liberal in this respect.

## ARTICLE V.

In the event of French citizens or persons under French protection, as well as the subjects or citizens of other nationalities residing in Tongking, wishing to cross the frontier into Chinese territory, the French authorities shall satisfy themselves of the respectability of such persons and shall then apply to the Chinese frontier officials to issue a passport. When furnished with such passport they shall be allowed to proceed, but it must be surrendered for cancellation upon their return. In every instance in which the holder of a passport is compelled to pass through the territory of tribal chieftains or aborigines, the fact must first be recorded on his passport that, as there are no Chinese officials in the places in question, protection cannot be afforded.

In the event of Chinese subjects in China wishing to proceed by land from China to Annam, the Chinese officials shall satisfy themselves of the respectability of such persons, and shall apply to the French officials for the issue of a passport, the action taken being in every respect similar to that required in the case of the French subjects entering Chinese territory. The passports issued by either party shall be used simply for purposes of travel, and shall not be allowed to be employed as a voucher for the purchase or sale of commodities and exemption from duty thereon.

In all cases of persons crossing the frontier without being furnished with a passport, the Chinese local authorities shall, in the case of China, be at liberty to detain such persons, and, in the case of Tongking, the French authorities shall be allowed to do likewise, respectively handing him over to the authorities of his own nationality, who shall deal with him as they may consider necessary under the circumstances.

In the event of Chinese subjects who are temporarily residents in Annam, returning from Tongking to China, all that will be required is a certificate from the Chinese authorities permitting them to cross the frontier.

French citizens and others at the places on the frontier open to trade will not be required to apply for a passport when traveling in localities less than fifty li distant from such places.

## ARTICLE VI.

All imports conveyed by French merchants and citizens, or persons under the protection of France, to the places upon the frontier open to trade which shall already have paid the import duty, may forthwith be taken into Chinese territory for sale, in ac-

cordance with Article VII of the rules appended to the tariff and the general rules in force at the various maritime customs for the conveyance of foreign goods into the interior under transit pass.

Upon the arrival of foreign goods of any description at the custom-houses at the two places, to be hereafter determined, on the Yun-Nan and Kuang-Si frontiers, a report shall be furnished containing a description of the goods, with specifications of their number, and the name of the importer, whereupon an agent of the customs shall be sent to inspect the goods, which, upon verification of the description given, shall pay a regular duty equal to one-fifth less than that laid down in the Chinese maritime tariff. In case of goods not enumerated in this tariff, regular duty shall be levied at the rate of 5 per centum ad valorem, but the regular duty must be paid in full before the goods can be removed from the places where they are stored, transferred to other conveyances, or sold. Should the merchant concerned wish to convey the goods into the interior he must once more report them at the customs, and must pay the half inland duty as prescribed in the maritime customs tariff, nor can the levy of such half duty be calculated as one-half the regular duty, minus 20 per cent.

After this half duty has been paid, the customs will issue a duty certificate entitling the holder to take the goods to the place indicated thereon for sale. No further levy of duty will be made at any customs stations or barrier the goods may encounter, but any goods conveyed into the interior which are unaccompanied by such certificates, will pay duty and likin at any customs station or barrier they may come to, in accordance with the rules governing local produce.

#### ARTICLE VII.

All French merchants or citizens, or persons under the protection of France, proceeding to any places in Chinese territory and purchasing local products which are conveyed to the places open to trade on the frontier for export therefrom into Tongking shall be allowed to do so under the conditions laid down in Article VII of the rules appended to the tariff with regard to the conveyance of native produce for export.

Native produce of any description conveyed from the provinces of Yun-Nan and Kuang-Si to the places open to foreign trade to be hereafter determined, shall upon arrival at the customs at these places be reported thereat, the report containing a description of the goods, with their numbers and the name of the person conveying the goods. An agent of the customs shall thereupon be sent to inspect the goods and verify the description. In the case of the merchant in question having previously taken out "triplicate pass" with which he has gone himself into the interior to purchase goods upon which he has not paid the inland duties or likin, he will be required, in conformity with the Chinese maritime tariff, first, to pay the half duty, and then to pay a regular duty equivalent to two-thirds of that prescribed by the Chinese maritime tariff. In the case of articles unenumerated in the tariff, a regular duty will be paid on the basis of 5 per centum ad valorem. This regular duty paid, the goods may be warehoused and transferred to other conveyances for transport and sale beyond the barrier.

Should the merchant in question enter Chinese territory and buy native produce without having taken out a "triplicate pass," the proper duty or likin thereon will have to be paid at all customs stations or likin barriers which the goods may pass, the stations or barriers issuing certificates as vouchers for these payments. On arrival at the frontier customs the goods will be exempt from half duty upon production of these certificates from the inland stations and barriers.

All carts and animals belonging to French citizens or others which pass the frontier customs stations of Yun-Nan and Kuang-Si inwards or outwards, as well as the carts or animals conveying the goods of Chinese subjects either into or out of Tongking shall one and all be exempt from taxation. The boats of either country passing the frontier station by water-ways accessible to boats may be called upon to pay tonnage dues in accordance with the rules prevailing at the various maritime customs [of China].

It is agreed by both Governments, with reference to the foregoing Articles VI and VII, that in the event hereafter of any other power arranging a separate frontier trade tariff for the land routes on the southwest of China with the Chinese Government, the French Government can likewise claim similar advantages.

#### ARTICLE VIII.

Foreign goods upon arrival at one of the frontier customs-houses, which shall have already paid the regular import duty, and shall in consequence of not being sold be conveyed to the other frontier customs-house, may, within the space of thirty-six months, if, on inspection, the original goods have not been opened or changed, receive an exemption certificate for the regular duty from the first customs-house, which shall be

allowed to be tendered at the second customs-house in satisfaction of the duty leviable thereat, or a drawback certificate may be given which will be available for payment of duties at the customs-house by which it is issued any time in three years, but in no case will ready money be returned.

Should such foreign goods be taken from thence to a Chinese treaty port, the usual regular maritime import duty on such foreign goods will be levied, and with a view to the avoidance of confusion neither this frontier customs drawback or exemption certificate, nor the frontier customs duty receipt will be allowed to be tendered in lieu thereof. No drawback certificate will be given for goods upon which the half-inland duty has already been paid in accordance with the rule prevailing at all the ports.

#### ARTICLE IX.

Native produce which has already paid the half and regular export duty at one frontier customs-house, and shall be taken to the other frontier customs for sale, shall only pay a second import duty amounting to half the regular duty already paid, but in conformity with the established rules prevailing at all the ports it shall not be conveyed into the interior by foreign merchants for sale. Such native produce upon importation into any maritime treaty port for sale, shall in every instance be dealt with in accordance with the tariff on foreign imports, and another regular duty be levied thereon. If it be conveyed into the interior it will still have to pay the inland duty.

In the case of native produce exported from a Chinese port into a port of Annam, and from thence again taken to the Chinese frontier, it will, upon arrival, have to pay a regular duty in like manner with foreign goods and inland duty again upon entering the interior.

#### ARTICLE X.

Upon the arrival of goods, whether exports or imports, at the frontier customs application must be made for the inspection thereof within a period of thirty-six hours. Should the goods not have been reported within this limit a fine of taels 50 shall be levied for every day's delay, but such fines shall not exceed taels 200 in the aggregate.

Should accurate proof be obtained of an intent being present to defraud when passing the goods over the frontier by reporting less than there actually are for duty, with the object of securing a reduction on the amount levied, the whole of the goods shall be confiscated. All goods which, unaccompanied by a permit from the superintendent of customs, are clandestinely conveyed across the frontier or discharged or sent round by circuitous routes or broken up into parcels for sale or attempted to be smuggled in any other way, shall be liable to confiscation.

Any merchant applying at the customs for a transit pass who shall, with intent to defraud, furnish a false statement of the description or number of his goods, or whose declaration of the place of origin and destination shows discrepancies, shall have all such goods confiscated. As regards the manner of investigating such cases the course of action to be pursued shall be that laid down in the regulations bearing date the 29th day of May, 1868.

In the case of goods condemned to confiscation should the merchant wish to pay the value thereof to the authorities he will be permitted to do so at a valuation arrived at with the Chinese authorities.

The Chinese authorities shall be at liberty to adopt the means that they may judge most proper for the prevention of smuggling along the Chinese frontier.

Chinese, French, and Annamese boats or junks plying on the water-ways shall not be required to discharge their cargoes ashore upon passing the barriers of either power if the pass and cargo correspond and there are no other irregularities. The customs will only send an agent on board to inspect the goods.

#### ARTICLE XI.

Chinese produce entering Tongking from the land side shall pay import duty in accordance with the French customs tariff, but all such produce intended for export shall be exempt from duty.

Should the French Government hereafter frame a new customs tariff or rules for Tongking these shall be duly communicated to the Chinese Government, and if in time to come special duties shall be fixed in Tongking upon certain classes of local products worked up into manufactures or upon "certified" gold or silver, Chinese articles of the same description shall be similarly taxed upon importation into Tongking.

#### ARTICLE XII.

All native produce passing through Tongking in process of conveyance from one Chinese frontier customs to the other, and all native produce sent back to China from



either frontier customs by way of any sea-port in Annam, shall pay the transit duty for Tongking laid down in the French tariff, but such transit duty shall not exceed 2 per centum ad valorem.

The above produce shall, after leaving Chinese territory, be inspected by the French customs, who will issue a certificate which shall contain a specification of the goods, and of the number and destination thereof. The holder of this certificate shall produce it at the demand of any French official *en route* and also on arrival at the maritime port, with a view to the prevention of smuggling; all such produce shall pay the regular import duty in advance upon entry into Tongking. A receipt for this duty will be issued by the French customs, which will be presented for inspection on the arrival of the goods at the sea-port or frontier customs, as the case may be. The French customs will then deduct the transit duty from the regular import duty and return the balance to the holder of the receipt, who will thereupon surrender his receipt for cancellation.

Inasmuch as the arrangement for the transit of this native produce across Tongking is a novel one, should proof positive be discovered that the merchant concerned has, with intent to defraud, made a false declaration of the description and number of his goods, or should the place of origin and destination be found not to correspond with the particulars given, the whole of such goods shall be confiscated. Should the merchant wish to pay to the authorities the money value of goods condemned to confiscation he is at liberty to do so at a valuation arrived at with the French authorities.

The arrangement specified above for taxation *in transitu* shall be applied to all Chinese produce *in transitu* through Annam that is exported through any maritime customs establishment to a sea-port in Annam and thence conveyed through Tongking to the Chinese frontier customs.

#### ARTICLE XIII.

The following articles shall be granted a duty-exemption certificate by the Chinese frontier customs on either importation or exportation, provided that they are found after inspection to be of *bona fide* foreign origin, are for the personal use of foreigners, and are in reasonable quantities: Gold and silver bullion, foreign coins, flour, Indian meal, sago, biscuits, preserved meats and vegetables, cheese, butter, confectionery, foreign clothing, jewelry, plated ware, perfumery, soap of all kinds, charcoal, firewood, candles (foreign), tobacco, cigars, foreign wine (beer, spirits), household stores, ships' stores, personal baggage, stationery, carpeting, druggeting, cutlery, foreign medicines, and glass and crystal ware.

But if such articles are not reported for inspection, or if they are clandestinely conveyed elsewhere, the same penalties will be enforced as those provided in the case of foreign merchandise.

If imported into the interior, with the exception of gold and silver bullion, foreign coins, and personal baggage, they will, in spite of the fact that they are for the personal use of foreigners, and insignificant in quantity, pay an inland duty at the rate of 2½ per cent. ad valorem.

Chinese subjects passing the Tongking frontier customs outwards or inwards will not be required to pay duty at the French customs upon any money, personal baggage, clothes, jewelry, pens, ink, and stationery, books, personal appliances, or articles of food they may have with them.

All articles imported by Chinese consuls for their personal use will similarly be free from duty.

#### ARTICLE XIV.

Both Governments engage that neither foreign nor native opium shall be allowed to be conveyed overland across the frontiers of Tongking and Yun-Nan, Kuang-Tung, and Kuang-Si for purchase or sale.

#### ARTICLE XV.

The export of rice or other grain across the Chinese frontier is prohibited, but if imported through the Chinese frontier customs it will be exempt from duty.

The import of gunpowder, shot, fire-arms, cannon, saltpeter, sulphur, and spelter, together with all munitions of war, salt, or any articles destructive of morality, is forbidden under penalty of entire confiscation.

Munitions of war procured by Chinese officials or by merchants who have received special written authority to purchase such must be inspected and duly verified at the customs before they can be allowed to pass.

The Chinese high authorities will be at liberty hereafter, after consultation with the French consuls, to pass arms and munitions of war through Tongking across the frontier, and under these conditions they shall be entirely exempt from duty at the French customs.



Similarly the import is prohibited into Tongking of all arms and munitions of war, together with any articles destructive of public morality.

## ARTICLE XVI.

Chinese merchants and subjects temporarily residing in Annam, who may be concerned in cases of homicide, revenue cases, or litigation generally, shall receive the same treatment as that accorded by France to the merchants and subjects of the most favored nation.

Disputes between Chinese subjects and French citizens or Annamese residing at the places on the frontier open to trade shall be jointly tried by Chinese and French officials.

Offenses, whether serious or trifling, committed by French citizens or persons under French protection at the places open to trade shall be dealt with in the manner laid down in articles 38 and 39 of the treaty of 1858.

## ARTICLE XVII.

If Chinese subjects at the places on the Chinese frontier to be opened to foreign trade who are guilty of any offense whatever against the laws of China shall take refuge in French houses or on board French ships or in the houses or ships of persons under the protection of France, upon the official application of the local authorities to the consul, and upon the particulars of their guilt being ascertained, steps shall be taken to seize and forward them to the Chinese officials for trial and punishment.

If criminals subjects of China shall take refuge in Annam they shall, upon due requisition by the Chinese authorities addressed to the French authorities, be searched for, and, on proof of their guilt, be delivered up in the manner provided for in the extradition treaties entered into between France and the most favored nation.

In the event of crimes committed by French citizens, or persons under French protection, should the accused take refuge in Chinese territory, the Chinese authorities shall, upon due requisition addressed to them by the French authorities, and, upon proof of his guilt, take steps to secure such person and deliver him to the French authorities for trial and punishment. These persons shall not be harbored or concealed in the smallest degree by either party.

## ARTICLE XVIII.

In cases in which provision has not been made in the present articles for the regulation of land frontier trade action shall be taken in accordance with the Chinese maritime customs trade regulations, or in a manner consistent with the general provisions of existing treaties.

In the case of other matters upon which no arrangement has been determined the authorities of both Governments shall apply to their respective countries for instructions.

Should any addition to or revision of the foregoing articles hereafter be found necessary, such addition or revision shall be decided upon in consultation at the expiration of ten years from the exchange of ratifications in the manner provided for in Article VIII of the new treaty.

The present trade regulations shall be published in China, France, and Annam, and shall come into force as soon as they have been ratified by both Governments, and, as before, the ratification shall be exchanged at Peking at the latest within one year from the date of signature.

KUANG HSII.

Twelfth year, third moon (April 25, 1886).

No. 56.

*Mr. Denby to Mr. Bayard.*

No. 141.]

LEGATION OF THE UNITED STATES,  
*Peking, May 31, 1886. (Received July 26.)*

SIR: During the month of August, 1884, the governor-general of the two Quangs, Ch'ang Chi-tung, had the southern channel of the Canton River closed by barriers and obstructions of piles, stones, and sunken junks, to prevent hostile ships menacing Canton.

The southern channel offers the easiest means of access for vessels to Canton, the water in it being much deeper than that in the northern

channel, when at low tide there is not over 6 feet a few miles below Canton.

Since this date the southern channel has remained closed to navigation, notwithstanding the united efforts of the consuls, who represented to the viceroy the great detriment to foreign trade occasioned by the closing of the only deep-water approach to Canton, for, not only were vessels obliged to wait for the tide, but in many cases they were absolutely debarred from reaching Canton, and had to lighten their cargo, occasioning thereby great additional expense.

The consuls having entirely failed in their endeavors, the question was taken up by the diplomatic corps at Peking, and in a conference held on the 16th of April last, it was decided that the different legations should address dispatches to the Tsung-li Yamên on the question. Under date of May 21, I wrote to the Yamên, stating the fact that the obstructions in the Canton River by the continual silting of the river were being continually added to, so that if they were not shortly removed they would constitute a permanent barrier, which would close to the commerce of the world one of the chief emporiums of trade in China. I moreover alluded to the fact that, during my recent visit to Canton, I had learnt that 70 vessels had during the past year been kept away from Canton, and that the maintenance of these obstructions was a source of general anxiety to the foreign commercial community of Canton.

Under date of the 23d instant I received a reply from the Yamên, which is identical with that which it has sent to the other legations in reply to their dispatches on the same subject.

The Yamên states that it is in receipt of a dispatch from the Viceroy of Canton, in which, after stating the nature of the two channels and the facilities which they offer, he says that it has been asked of him by the foreign consuls either to remove the obstructions in the south channel (Sha-lu), or to have appointed a deputy at Whampoa who could transact the business of ships. These points the viceroy had referred to the commissioner of customs at Canton, Mr. Hippisley, who replied in substance that during the previous year 1,067 foreign vessels had entered or cleared at Canton, of which 90 were German. But few vessels have experienced any delay—one day at the most—by being obliged to navigate the north channel. As to the request made by the German consul that a deputy be appointed at Whampoa, it was deemed inexpedient, as the bulk of foreign trade with Canton was carried on with native junks, and the burden imposed by the closing of the channel only bore on Chinese subjects. The chief argument of the Yamên against reopening the south channel is that the Viceroy having memorialized the throne requesting that it might be closed forevermore, the Emperor has given his approval, and thus disposed of the question.

I have, &c,

CHARLES DENBY.

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No. 57.

*Mr. Denby to Mr. Bayard.*

No. 142.]

LEGATION OF THE UNITED STATES,  
Peking, June 2, 1886. (Received July 26.)

SIR: This legation has, during the past few years, addressed several dispatches to the Department on the question of dredging the Woo-Sung Bar in the Huang p'u River, near Shanghai, the importance of which

operation is well known to the Department. On January 21, 1882, the chargé d'affaires *ad interim* in China, wrote to the Department announcing that steps had been taken by the Chinese authorities to dredge the bar and deepen the channel of water communication between Shanghai and the sea. A dredge was purchased and work actually commenced, but the outbreak of troubles with France shortly after arrested the work, which has not since been resumed.

On the 16th of April last the diplomatic corps at Peking decided to address the Yamèn on the subject.

I inclose herewith the note which I sent the Yamèn. The answer which I received under date May 31 appears satisfactory, and we have every reason to believe that work on the bar will be resumed at an early date, especially as the request of the foreign representatives is backed by one which the Shanghai taotai has recently made to the Tsung-li Yamèn begging that the dredging might be recommenced at once.

I have, &c.,

CHARLES DENBY.

[Inclosure 1, in No. 142.]

*Mr. Denby to the Foreign Office.*

(Informal.)

MAY 21, 1886.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

This legation, in common with the representatives of the other treaty powers, has had occasion in past years to address you on the subject of the bar which exists in the Huang Pú River and which constitutes such a grave obstacle in the way of vessels desiring to reach Shanghai.

The Chinese Government, well aware of the importance of removing this barrier to trade, had commenced this work several years ago. Political complications came and arrested the execution of this most essential undertaking, but now, that these have happily been removed, nothing can be in the way of the Government carrying out, what we know, from the assurances it has formerly given this legation, to be its steadfast purpose, the removal of a serious obstruction in the way of trade and a source of additional expense to the owners of ships entering Shanghai.

I therefore beg to call the early attention of your imperial highness and your excellencies to the advisability of recommencing the work of dredging the bar in the Huang Pú (the Woosung Bar) and of completing a great work of general usefulness which has only been arrested in its execution by unforeseen circumstances.

I avail myself, &c.,

CHARLES DENBY.

[Inclosure 2, in No. 142.]

*The Foreign Office to Mr. Denby.*

(Informal.)

MAY 31, 1886.

In reply to your excellency's note of May 21, in which, referring to the Woosung bar in the Huang Pú River, you request that the work of dredging may be resumed, as it is difficult for foreign shipping to reach Shanghai and increases greatly their expenses, this Yamèn has to state that the question of dredging the Woosung bar has already been the subject of dispatches and notes similar to the above from the ministers of Russia, England, and Germany. This Yamèn has already written to the southern superintendent of trade asking him to direct the Shanghai customs taotai to inquire into the subject and ascertain whether the now unused dredge, which had been formerly bought for the purpose, has at present its machinery in good working order, and if it be in condition to commence work at once. The question has not yet been decided, and when the reply of the southern superintendent of trade comes to hand and the plans submitted have been examined, we will address you further on the subject.

We avail ourselves, &c.



No. 58.

*Mr. Denby to Mr. Bayard.*

No. 144.]

LEGATION OF THE UNITED STATES,  
*Peking, June 5, 1886. (Received July 26.)*

SIR: I have the honor to forward herewith for your information an extract from the Shanghai Courier, giving a report of an interview between Sir John Walsham, Her British Majesty's minister to China, who has lately arrived in Shanghai, and the committee of the general chamber of commerce, which was desirous of bringing to the minister's attention several matters which affected seriously the trade of Shanghai, the most important of which being the unsatisfactory system of duty drawbacks.

Sir John Walsham replied that he thought a solution of this difficulty might be reached by making the bonds for these drawbacks the equivalent of cash, or by allowing them to be held as payable for any duties at an open port custom-house.

I have, &amp;c.,

CHARLES DENBY.

[Inclosure 1 in No. 144.]

INTERVIEW OF THE CHAMBER OF COMMERCE COMMITTEE WITH SIR JOHN WALSHAM,  
BART.

The following report has been courteously sent us by the committee of the Shanghai General Chamber of Commerce:

Sir John Walsham, Her Britannic Majesty's minister in China, having arrived at Shanghai on his way to Peking, the committee of the general chamber of commerce, deemed it desirable to take advantage of his presence here, with the view of bringing to his notice several matters of interest connected with the trade of this port, which have for a long time engaged the attention of the chamber, and regarding which the chamber has from time to time addressed the representative of the foreign powers at Peking.

In the hope, therefore, that, in concert with the other ministers, he would use his best endeavors to bring to a speedy and satisfactory conclusion these pending questions, the committee asked Sir John Walsham to give them an opportunity before he left Shanghai, of placing him in possession of the views of the foreign merchants, whom they represented, and in order that he might be made acquainted with the steps which had already been taken by the chamber in furtherance of those views, the committee submitted to him copies of the correspondence that related to some of the principal matters in question, viz:

The general conservancy of the rivers including the dredging of the Woo-sung Bar.

The present unsatisfactory system of duty drawbacks.

The collection in the settlement of the tax on opium known as *likin*, in connection with which the committee said they would be glad to receive any information which Sir John Walsham might have in his power to give with regard to the probable operation of the Cheefoo agreement of 1876.

Her Britannic Majesty's minister, in reply to the invitation of the committee, informed them that it would afford him very great pleasure to meet them, and named Saturday, the 22d instant, for the purpose, in case this date should not be inconvenient to them.

The interview took place at Her Britannic Majesty's consulate-general at 11 o'clock on that day, when the following members of the committee were present: Messrs. J. G. Purdon (chairman), J. J. Keswick (vice-chairman), W. Brand, F. E. Haskell, C. M. Dice, A. G. Wood, and George R. Corner (secretary).

Having been introduced by Mr. Alabaster, her Britannic Majesty's acting consul-general, Mr. Purdon offered Sir John Walsham, who was accompanied by Mr. Townley, a member of the legation at Peking, and his private secretary, a cordial welcome to China, on behalf of the chamber of commerce and the mercantile commu-



nity of Shanghai, and expressed at the same time their gratification at having an opportunity of meeting him on his way to Peking.

Sir John expressed his sincere thanks for the heartiness of the welcome, and begged to assure the committee that he was very sensible of the great kindness which had been shown to him and his family since their arrival. He was obliged to them, he added, for having furnished him with an occasion for becoming personally acquainted with the representatives of the chamber, and of learning their views and wishes in respect of matters which affected the community, and he need scarcely assure them that no effort would be spared on his part to assist in promoting and furthering their interest.

Alluding to the points to which the committee had more especially called his attention, he would first of all say a few words on the subject of the Cheefoo agreement, and the desire of the committee to be informed as to how the matter stood at present. As they were doubtless aware, the coming into force of this agreement depended on the terms of an additional article which had been signed by the two Governments, and which modified in certain respects the terms of the original agreement, the application of the tax on opium known as likins figuring amongst such modifications. When he left London early last month he understood that the negotiations between the two Governments were proceeding satisfactorily, and he should not therefore have been surprised on arriving at Shanghai to learn that an arrangement had been come to for giving effect to the operation of the article. He had not, however, received any further information on the subject other than the fact that Her Britannic Majesty's Government had agreed to allow the additional article to be put into force at once, and possibly therefore, although he did not pretend to say that such was the case, any delay that had occurred might be due to the fact that the labors of the joint commission which was to be appointed under the Cheefoo agreement had not yet commenced.

As regards the dredging of the river, the foreign representatives at Peking had, he believed, within a recent date, been interesting themselves in the matter, and there was good reason for hoping that dredging operations might shortly be undertaken.

With respect to drawbacks they were of three kinds, as pointed out in the memorandum attached to the report of the chamber of commerce for 1884. It appeared, however, that the complaints of the mercantile community had reference chiefly to the hardship entailed by what were known as coast-trade drawbacks, on the grounds:

(1) That they must be applied for within twelve months after arrival of the produce at the port of re-entry.

(2) That they are not exchangeable for ready money as in the case of drawbacks for import duty on foreign goods re-exported to a foreign country or to another treaty port.

(3) That they are available only for payment of other coast-trade duties at the port of issue.

Sir John said that he concurred with the committee in considering that the complaint of the mercantile community on this head was well founded, and he would use his best efforts to aid in obtaining a remedy for what, in the majority of instances, must cause not only serious inconvenience to the exporter, but also no inconsiderable loss. Perhaps a solution of the difficulty might be found by making the bonds for these drawbacks the equivalent of cash, or by allowing them to be held as payable for any duties at any open port custom-house.

The chairman replied that he thought this would be so.

The committee then thanked Sir John for their reception and withdrew.—*Daily News.*

## No. 59.

*Mr. Bayard to Mr. Denby.*

No. 84.]

DEPARTMENT OF STATE,  
Washington, June 30, 1886.

SIR: I have received your dispatch No. 132, of April 19, 1886, touching the claim of Mr. John P. Cowles, jr., for reduction of duty on damaged exports, and have to approve your precautionary note to the Yamén of December 13 last, in such cases.

I am, &c.,

T. F. BAYARD.

No. 60.

*Mr. Bayard to Mr. Denby.*

No. 88.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1886.*

SIR: I have received your No. 144 of the 5th ultimo, relative to the published interview between Her Britannic Majesty's minister to China and a committee from the chamber of commerce at Shanghai, and have to say that the commerce of the United States, in common with that of other nations, is interested in the removal or amelioration of hindrances to trade and access.

I am, &amp;c.,

T. F. BAYARD.

No. 61.

*Mr. Bayard to Mr. Denby.*

No. 90.]

DEPARTMENT OF STATE,  
*Washington, July 28, 1886.*

SIR: Your No. 141 is before me, and brings to the Department, with much clearness, a question of great interest. It is unquestionable that a belligerent may, during war, place obstructions in the channel of a belligerent port, for the purpose of excluding vessels of the other belligerent which seek the port either as hostile cruisers or as blockade-runners. This was done by the Dutch when attacked by Spain in the time of Philip II; by England when attacked by the Dutch in the time of Charles II; by the United States when attacked by Great Britain in the Revolutionary war and in the war of 1812; by the United States during the late civil war; by Russia at the siege of Sebastopol; and by Germany during the Franco German war of 1870. But while such is the law, it is equally settled by the law of nations that when war ceases such obstructions, when impeding navigation in channels in which great ships are accustomed to pass, must be removed by the territorial authorities. Such is the rule apart from treaty; and it was implicitly admitted by Mr. Seward, when, in replying to the remonstrances by the British Government on the placing by the blockading authorities of obstructions in the harbor of Charleston, he stated that these obstructions were placed there merely temporarily. Were there any doubt about this question, which I maintain there is not, it would be settled by the provisions of our treaties with China, which virtually make Canton a free port, to which our merchant ships are entitled to have free access in time of peace. You are therefore instructed to make use of the best efforts in your power to induce the Chinese Government to remove the obstructions in the Canton River, which, as you state, operate to close the port of Canton to the merchant vessels of the United States.

In sending to you this instruction, I affirm the instruction of Mr. Frelinghuysen to Mr. Young, No. 267, dated April 18, 1884, printed in the foreign relations of that year.

I am, &amp;c.,

T. F. BAYARD

## No. 62.

*Mr. Denby to Mr. Bayard.*

No. 221.]

LEGATION OF THE UNITED STATES,  
*Peking, October 9, 1886. (Received November 23.)*

SIR: Owing to the notoriety of the two recent cases of riots in which missionary property has been destroyed in China, the time seems opportune for some discussion of the rights of missionaries in China. This discussion runs through the archives of this legation, occurring now and again. My observations will not be new to the Department, but may, possibly, serve some good purpose if brought to the knowledge of missionary organizations in the United States. In their preparation I recognize my obligation to my predecessors generally, and particularly to Governor Low, who exhaustively discussed some of the questions sixteen years ago.

The treaties with China which provide for the toleration of the Christian religion with the great Powers, Russia, the United States, Great Britain, and France, were concluded in 1858. The Russian and French treaties went farther than the others, in this, that they contained provisions that the missionaries of those countries might travel in the interior on passports.

In the other treaties the missionaries were allowed the same privileges as merchants who were confined to the open ports. In those ports they might purchase land and erect houses.

After the occupation of Peking by the French and English in 1860, a new clause, the celebrated sixth clause, was inserted in the Chinese text of the French treaty. The last sentence is this:

It is in addition permitted to French missionaries to rent and purchase land in all the provinces and to erect buildings thereon at pleasure.

No such words are contained in the French text. There are no similar words, no language, which, by any construction, can seem to have been made the basis of the actual translation from French to Chinese.

Our own missionaries have often cited this clause to me, and Mr. John Russell Young, in 1885, in one of his dispatches, cites it as being some sort of a basis for the right to go into the interior. But my predecessors have very generally construed this clause differently. They have almost universally held that even if the Chinese text is authoritative it must apply to rights which existed before it was adopted, thereby restoring to the French the right to return to the localities which they formerly occupied but conferring no new rights.

The English Government distinctly adopted this construction, and declined in any event to avail itself of the right to adopt this clause under the favored-nation clause, even if the right existed.

It has never been definitely known how the clause, touching which the French text is absolutely silent, became a part of the Chinese text.

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It must be remarked, also, that the third article of the French treaty of 1858 provides that the French text shall govern in defining the true meaning of the treaty. This rule, therefore, does away with the alleged Chinese text.

It must be assumed, therefore, as the construction placed by all the nationalities on the treaty in question, that the right to settle at will in the interior does not exist. But, for fear of misapprehension, let it also be distinctly said that the treaties guarantee peace and protection

to foreigners who are lawfully anywhere in China. It follows that, if the zeal of missionaries leads them to locate in the interior, and if the local authorities consent to such location, allow them to buy land and erect buildings, the United States would not submit to their being ejected by violence or without due process of law.

There is an element affecting the right of foreigners to locate in the interior to which proper consideration has been rarely given. It is the effect of the extraterritorial jurisdiction which is claimed and exercised with the utmost strictness by the foreign powers. It is frequently said that the Chinese have in the United States much greater rights and privileges than the Americans have in China. Looked at in the general this is true. The Chinese in the United States may, when once he has lawfully landed, take up his residence at pleasure in any one of the thirty-eight States and eight Territories. Possibly in some of the States, and perhaps all the Territories, under late legislation, he cannot become the owner of land in fee. But with this exception he enjoys all the rights of the native-born citizen, except the right of participating in the government of the country by voting. And he has none of the ordinary liabilities which accompany citizenship. He cannot be compelled to serve on juries or in the militia, or be conscripted in the Army. He enjoys all the privileges of residence without any burden upon him either to his own country or to that of his residence. He may engage in all species of business on the same terms as a citizen. It would seem at the first blush that he has greatly the advantage of the American in China, who is restricted to the selection of a residence in the open ports, is not allowed to engage in any manufacturing enterprises, and cannot travel anywhere without a passport. It is held that the passport when granted is confined in its use to the territory described in it.

But the foreigner has one very remarkable advantage which is far-reaching in its effects. The foreigner in China is amenable only to his own laws as far as mode of trial extends and measure of punishment. He can be tried by his own consul only, and by no other tribunal. He is thus protected from the imposition of the severe and barbarous penalties such as the Ling-Chih, or death by the slow process, torturing, bamboosing, and bastinadoing, which are daily inflicted on the Chinese by their own courts. For debt or crime he must be proceeded against according to the laws of his own nationality.

This concession of extraterritorial jurisdiction necessarily restricts the area of its exercise. If the foreigner is amenable to no court but his own there should be a convenient forum in which he might be tried. Foreigners are by no means perfect in their conduct in China any more than they are at home. It is evidently impracticable to create such a tribunal at every locality in China. The only other remedy is to restrict foreigners in their residence to such localities as may furnish the necessary tribunals. Besides this system is an anomaly.

\* \* \* \* \*

It is on principle only defensible because it is a necessary part of self-defense, a doctrine which is the supreme law of civilized communities.

But the Chinese are becoming day by day more jealous of its exercise. Japan, to avoid its effect, is about to adopt a code in accordance with the codes of western countries. She will then, perhaps successfully, appeal to the world to renounce the extraterritorial claims in her borders.

If all foreign powers all over this vast Empire exercised practically the



extraterritorial jurisdiction, and if, by reason of the location of many foreigners all over the Empire, its exercise became a common and usual matter, plainly the authority of the Chinese Government would be seriously shaken. No nation can be expected to surrender willingly its inherent power over all the people residing in its territory.

It is further to be observed that there are many foreigners now residing in China who are to all intents permanent residents. They retain their distinctive national character because it is advantageous to them in many ways. But for the protection assured by their own Governments they render no equivalent, and they are beyond the pale of liability to China. They escape the burdens of society and the obligations of citizenship to any and all Governments. I do not make this suggestion with any purpose of criticizing unfavorably this relation, and I do not recommend any modification of this condition as far as China is concerned. It is perhaps an anomaly in international relations that a citizen of the United States can deliberately take up his permanent residence abroad and retain all the rights of citizenship in his old home and escape all its obligations. But in semi-civilized countries, at least, there seems no remedy for these inconsistencies.

If there were correlative naturalization laws prevailing in all countries some solution might be had. But there is no solution as far as China is concerned which occurs to me. As the United States has deliberately denied citizenship to the Chinese while allowing them residence, she, at least, cannot raise this question.

The foreign powers make no difference in China between the treatment of missionaries and any and all other classes. The missionary is simply a citizen, and the sacred character of his object and purposes does not enter into the question of the determination of his rights.

It is impossible for men to shut their eyes to the peculiar employments of their fellows, and as in Christian communities a large amount of sympathy is accorded to those persons who have exiled themselves to do "God's work" and not man's, it is probable that a consideration of the religious and charitable character of missionary work might form the basis of some solution of the right of the missionary to go into the interior. Practically these considerations do enter into the treatment of the missionaries. No manufacturer or merchant would be allowed to settle in Kalgan or other points in the interior where there are flourishing missionary stations. If any distinction, therefore, between missionaries and other classes of citizens were possible under the laws and Constitution of the United States the vexed question of residence in the interior might be solved. The first element in such broad recognition of the duties, obligations, and purposes of the missionaries would be the impression on the minds of the Chinese of the fact that there is no purpose in their coming to China save the honest open one of the spread of religious principle and the practice of pure charity. It should be mentioned incidentally that there are twenty-three great hospitals now in operation under the missionaries in China. Neither foreigner nor Chinese disputes the patent fact of the great good which they accomplish. But the observer in China must recognize that there is great mistrust of the missionaries. To say, as is usually said, that this mistrust is confined to the literati and gentry and does not extend to the common people, does not alter the fact. These two classes control all others.

That the religious representatives in China of all sects have furnished, of late years at least, no cause for this mistrust, I believe is true. It used to be charged that the Catholics assumed some temporal power,

but I have seen no proof of any tendency in that direction. The Catholics number, probably, 1,200,000 adherents, and in late years they have done very little proselyting, but have confined their labors to the spiritual needs of Catholic families.

The natural increase has made them powerful and numerous.

Here, then, is the long, slow, tedious work before the missionary to convince the Chinese by his conduct that he has no object to accomplish but their own welfare, to remove prejudice and to win confidence.

The means are apparent and have been used by missionary laborers with rare ability, courage, and industry. They are to educate the young and heal the sick. This great country, owing to its peculiar language, its dense population, its ancient conservatism, moves slowly. But when we realize that mission work under favorable auspices only commenced after the treaty of 1858, and the occupation of Peking by the English and French in 1860, and when we see what has been accomplished in twenty-six years, we must admit that great progress has been made and we must look hopefully to the employment of missionary agencies in the future.

I think no one will deny the beneficent effect of mission work in Japan in civilizing that country and educating that people. Why, then, should some praise not be accorded to missionaries in China for the immense work in the same line that they have done?

I offer no observation on the religious side of this work. It does not come within the purview of the diplomatic agent to discuss the spiritual nature of this labor. If an American Buddhist or Mohammedan or Jew were to come to China to pursue the work of preaching his doctrine, he would undoubtedly receive at the hands of his country's representatives the same protection that is vouchsafed to the Christian. It may be asked, what has diplomacy to do with a question which is so largely confined to the spread of religious doctrine. The answer is that the diplomatic agent recognizes that the complete civilization of a people means the increase of trade and commerce with the rest of the world. Any line of conduct which throws open new continents to intercourse with the great producing and creating countries is beneficial to them. Here in China it cannot be denied that the educational labors of the missionaries, the preparation and publication of innumerable books, the introduction of new medicines and inventions in surgery have all tended to improve the natives. Civilization means commerce, trade, a market for manufactured articles.

It is idle to inquire whether war would have produced the same results, or the merchant alone would have done as much. The ardent zeal, the supreme self-denial, the utter self-sacrifice that characterize missionaries are not found in the votaries of commerce.

Diplomacy, finding the representatives of the various nationalities here, steps in to supplement their labor. It has its field of education no less pertinent than theirs. It educates the diplomatists of the country. It teaches international law. It insures protection to all honest labor. Its efforts are not directed to the aggrandizement of individuals, but to the promotion of the general welfare of the various nations. In some cases, as luminously in our own country, it antagonizes baleful commercial enterprise, like the opium traffic. And here again the missionaries by their influence aid the efforts of diplomacy. Diplomacy makes both the merchant and the missionary secure.

In my trip over China I visited every mission school and hospital, and made the acquaintance of every missionary. I am persuaded that their work is being pushed with diligence and intelligence. I demand

of them the exercise of prudence and forbearance. I demand that they shall insist on no doubtful rights—that their zeal shall not outrun their discretion. Their warrant to preach the Gospel to all nations must be construed with the context, which enjoins obedience to the powers that be. If they remain in the fair scope of their exalted employment this legation will always be found in sympathy with their just rights.

I have, &c.,

CHARLES DENBY.

No. 63.

*Mr. Denby to Mr. Bayard.*

No. 242.]

LEGATION OF THE UNITED STATES,  
*Peking, November 17, 1886. (Received January 3, 1887.)*

SIR : I have the honor to report to the Department that, owing to the heavy and incessant down-pour of rain which prevailed during the summer and early part of the autumn in the province of Chihli, many districts in the prefectures of Shuntien, Paoting, Hochien, Tientsin, and other places were flooded by the overflow of the rivers and bursting of their embankments.

The crops are entirely destroyed and the country completely covered with water—countless houses have been demolished or rendered uninhabitable; most of the people are roofless, and no small number on the verge of starvation; and a winter of fearful severity to be faced; all the evils that are implied in the three words, hunger, cold, and nakedness, lie before these Chinese unfortunates.

The inundations have caused the Government serious uneasiness, and it is to be feared there is too good reason for anxiety. The districts flooded are immense; the ruin caused complete; there is little prospect of the water draining off before the winter sets in, so many tens of square miles of land will be converted for some months into a frozen lake, and thousands of agricultural people will be utterly deprived of the means of earning food. The land flooded is so low that the drainage towards the sea is slight and slow, and the unseasonable rains during the month of October have counteracted to a great extent any diminution which might have taken place, so that at present the water on the plain in some places adjacent to Tientsin is almost as deep as when the flood was at the highest point. Immense districts more or less ice-bound, and thousands of starving people to be housed and fed during a severe winter—this, then, is the prospect which the Government has to face, and this, not in a remote region of the Empire, but in the immediate neighborhood of the capital, where the Emperor has not only already heard, but is likely to still hear, the cry of distress with unpleasant distinctness.

The following appropriations of rice and money have been made by decrees issued by the Empress Regent and Emperor, to alleviate the distress of the sufferers:

On the 9th of August 66,130 piculs of rice were granted by imperial order, to be distributed among the famine-stricken in the four prefectures above alluded to. The rice to be taken from the tribute grain of Kiangsu in transit to Peking, and the money necessary to defray cost of transit of same is also given to afford relief to the sufferers.

On the 4th of September another allotment of 50,000 piculs of tribute rice was given from the Kiangpei supply, as well as the money



necessary for cost of transportation of same, to be distributed among the sufferers in the Shuntien prefecture.

On the same day the Empress Regent granted by imperial decree from the palace fund the sum of 20,000 taels for the same purpose.

On the 5th of September a further decree appeared, based upon a memorial presented by the governor-general, Li Hung Chang, granting an appropriation of 100,000 taels to be used at once in giving succor and relief to the destitute in various districts in the prefectures of Tientsin and Yungping, the money to be furnished by the provincial treasurer of Chihli. The Empress also decreed on the same day that the board of revenue shall appropriate 20,000 taels from the moneys due for the imperial palace, to be applied toward giving relief to the distressed throughout the flooded districts in the province of Chihli.

Hundreds of refugees are seen daily—men, women, and children—going to and returning from the Government soup kitchens, where they receive a quantity of gruel per diem, but the small amount received cannot very well support life, especially to those who are half-clothed and barely sheltered from the nights' cold.

In the districts surrounding and belonging to Tientsin through which the high road to Peking passes, for nearly 15 miles every village is destroyed, the country presenting one vast and almost uninterrupted expanse, of water, dotted here and there with island hamlets (the walls of the remaining houses) and forlorn trees. Boats of various description are to be seen skimming over these waters, and the trade in fishing has received an immense impetus, many of the farmers, whose means of support by agricultural pursuits are cut off, having taken to fishing as a source of livelihood. While this occupation will help to keep many from the pangs of hunger for a short time, it will cease when the water is frozen.

I have, &c.,

CHARLES DENBY.

## CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON.

No. 64.

*Cheng Tsao Ju to Mr. Bayard.*

CHINESE LEGATION,

*Washington, D. C., November 30, 1885.*

SIR: I have the honor to state that it becomes my painful duty to bring formally to the notice of your excellency a subject of the gravest importance, heretofore referred to in other notes, and to ask for it the careful and considerate attention which distinguishes your conduct towards this legation and my Government.

It appears that several hundred subjects of his Imperial Majesty the Emperor of China, having entered the territory of the United States in accordance with treaty stipulations, had located themselves at Rock Springs, in the Federal Territory of Wyoming; had there erected houses, and for a number of years past had been engaged in the lawful pursuits of peaceful industry. On the 2d of September last these subjects, while quietly engaged in their usual avocations, were suddenly attacked, without any provocation on their part, by a lawless band of armed men,



said to have numbered about one hundred and fifty persons. With scarcely any warning the Chinese were ordered by the mob to leave their homes, but before an opportunity was afforded them to execute these orders a deadly fire of musketry was opened upon them, and they were compelled to abandon their houses and all their property and flee to the mountains for their lives. In a short space of time all who were able had fled without offering any resistance, many of them being shot while in their homes or as they ran away from them. Fire was then set by the rioters to their houses, and the entire village, which constituted their chief place of abode, and all Chinese habitations outside the town of Rock Springs, were burned to the ground. As a result of the mob, twenty-eight Chinese were killed, fifteen more or less severely wounded, and a large amount of property (estimated at \$147,748.74) was destroyed or appropriated by the rioters.

The Chinese consuls at San Francisco and New York were directed by this legation to go to the scene of the massacre and make a personal investigation of the circumstances attending it. I desire again to make acknowledgment of the inestimable service which was rendered to these consuls through the very prompt and generous action of your excellency, in causing to be sent high officers of your Government to accompany them for protection and assistance in their work. It is also a grateful duty I discharge in praying you to convey to the noble President of this nation the hearty thanks of my Government for the timely dispatch of troops to Rock Springs after the massacre, which, I am sure, prevented still further loss of life and property among my countrymen.

After a careful and thorough investigation, the Chinese consuls have sent to me their reports, which, with the accompanying papers, I inclose herewith for the information of your excellency. To some points established by these documents I deem it proper to direct attention.

It will be noticed that the attack upon the Chinese was unprovoked on their part. The consul at San Francisco reports that "no grievances are complained of by the miners as against the Chinese," and this is confirmed by all the witnesses whose testimony was taken. The postmaster, a resident of the town for ten years, says he has found the Chinese, "as a class, quiet and well disposed," and he had "never known of any feeling among the Chinese towards the white miners." The consul at San Francisco "was assured by prominent citizens, long resident in the Territory, that, as a class, the Chinese have always been law-abiding, quiet, and peaceable, promptly complying with all exactions in the payment of taxes, never in any way becoming a tax upon the authorities." There seems to have been no complaint as to discrimination in wages, the only motive alleged for the assault being the refusal of the Chinese to join the other miners in their "strikes."

A second fact shown is, that the events occurred in "broad day-light." One of the witnesses says, "I think nearly all the murderers can be identified, as no concealment was attempted, \* \* \* but all done in day-light." It does not appear that any civil or other authorities made any attempt to prevent or suppress the riot. The judicial proceedings which followed the sad event are described as "a burlesque." The conduct of the coroner who investigated the causes of death seems to me strange, but with my imperfect knowledge of American procedure I prefer not to criticise it.

A further fact is stated by the consul at San Francisco. He says, "I am, after thorough investigation, firmly of the opinion that not one of these criminals who murdered the Chinese, burned and robbed them at Rock Springs, *will or can ever be brought to punishment by the so-called*

*Territorial or local authorities.* In this opinion I am sustained not only by my own convictions, but also *by the governor and prosecuting attorney of the Territory*, and scores of citizens, resident and non-resident." This opinion would seem from subsequent events to have been well founded, as, according to the reports in the public press, all of those who had been arrested for participating in the riot have been released, and the grand jury of the county has refused to find any bills of indictment.

For about twelve hours the rioting, robbery, and arson continued unrestrained; for although, as stated, the killing and wounding of the Chinese and the burning of a great part of the houses were done during the daytime, the witnesses testify that "a little after nightfall the firing of the remaining Chinese houses commenced and continued until after midnight. All this time men, women, and children were engaged in looting and plundering." And the miners' newspaper at Rock Springs says, "All night long the sound of rifle and revolver was heard, and the surrounding hills were lit by the glare of the burning houses." I purposely refrain from giving the details of the massacre contained in the testimony inclosed, as I deem them of too revolting and sickening a character to be repeated in this note, and I am too well acquainted with the noble and humane sentiments which inspire your excellency to think that such a statement is necessary to awaken your sympathy and indignation, and call forth all the powers of your Government to vindicate its laws and repair the wrong which has been done to my countrymen.

It therefore remains for me to ask, in the name of the Emperor and Government of China, that the persons who have been guilty of this murder, robbery, and arson, be brought to punishment; that the Chinese subjects be fully indemnified for all the losses and injuries they have sustained by this lawlessness; and that suitable measures be adopted to protect the Chinese residents of Wyoming Territory and elsewhere in the United States from similar attacks. In this connection, I beg to refer to a list of names of those who were killed and wounded, and of the property losses which were inflicted upon Chinese subjects at Rock Springs by the mob of September 2 last.

With this statement I might consider my duty discharged, but for the fact that this legation having had occasion to call the attention of two of your worthy predecessors to a similar but much less bloody and disastrous event, the honorable Secretary Evarts expressed some doubts as to the legal liability of his Government to make pecuniary indemnity to the Chinese sufferers by the mob at Denver, in the State of Colorado, in 1880, and that the honorable Secretary Blaine concurred in the views of Mr. Secretary Evarts. I have, therefore, to beg the kind indulgence of your excellency while I attempt to show why the present request for indemnification, in the opinion of my Government, ought in justice and equity to be granted, notwithstanding the views set forth in the notes of Secretary Evarts of December 30, 1880, and of Secretary Blaine of March 25, 1881. In doing this it is not my intention to either appeal to you from or to question the correctness of the interpretation of the laws of the United States as given by the distinguished jurist Mr. Evarts, and confirmed by the experienced statesman, Mr. Blaine. It would seem to me, however, to be just that if the view taken by Mr. Evarts as to the obligation of the United States to make indemnity for injuries to private individuals from mob violence should be insisted upon and adhered to by your excellency's Government, China should, in due reciprocity and international comity, accept and practice the same principle.

In the first place, I desire to submit to the enlightened judgment of your excellency, whether the present case is not, in one material respect, different from the occurrence at Denver, Colo. In the latter, Mr. Evarts called attention to the fact "that the powers of direct intervention on the part of this Government are limited by the Constitution of the United States. Under the limitations of that instrument, the Government of the Federal Union cannot interfere in regard to the administration or execution of the municipal laws of a State of the Union, except under circumstances expressly provided for in the Constitution." And after referring to those circumstances as applied to the Denver riot, he concluded that action "belongs exclusively to the Government and authorities of the State of Colorado." But in the present case, if I have been correctly informed as to the Governmental practice of your excellency's nation, the administration of justice and the protection of life and property belong exclusively to the Government and authorities of the Federal Union, and the limitations referred to, as hampering the immediate and direct intervention of the Supreme Government in the Denver case, do not obstruct the action requested in this note. But it is not my intention nor am I qualified to discuss the relative responsibilities or duties of the central and provincial bodies or authorities of the American Union. I count my Government and myself fortunate in having had at the head of the foreign department of this country, in the person of your excellency, one whose long and distinguished experience in public affairs and intimate knowledge of domestic law, and whose well-known sense of international justice and fair dealing eminently fit him for this task, and I cheerfully leave this question in your hands.

There is, however, a broader view of the subject, to which I desire to ask your excellency's consideration. Mr. Evarts states that he knows "of no principle of national obligation, and certainly there is none arising out of treaty stipulations, which renders it incumbent on the Government of the United States to make indemnity to the Chinese residents of Denver, who \* \* \* suffered losses from the operations of the mob. Whatever remedies may be afforded to the citizens of Colorado \* \* \* are equally open to the Chinese residents of Denver. \* \* \* This is all that the principles of international law and the usages of national comity demand." I again disown any desire to question the interpretation of international law given by so high an authority, but as "the usages of national comity" are matters of fact and not of law, I trust it may not be considered inappropriate for me to examine somewhat in detail what these "usages" really have been and now are.

There is a principle of reciprocal justice and comity so fair and so true that it is incorporated as a cardinal doctrine, in common, in the system of religion and ethics of the people of America and of China. And in proof of the fact that this principle is equally applicable to Governments in their international relations as to persons in their individual duties, it has been inserted in one of the earliest treaties between China and the United States, and the maxim "to do to others as they would have others do to them" remains in a treaty which is to-day the international law of the two nations (Article XXIX, treaty of 1858). Although, unhappily, this principle has not always been observed in the relations which Christian nations have maintained towards China during the present century, it affords me the highest gratification to recognize the fact that whatever advances have been made in the direction of a practical application of that principle are due in great measure to the



magnanimous conduct and powerful influence of the Government of the United States. This conduct has been manifested in a number of instances, but notably so when my Government determined to ask the nations of America and Europe to change the policy which they had heretofore pursued, and to enter upon new treaty stipulations. China cherishes with grateful memory the cordial reception given by the United States to its special embassy in 1868, and the ready acceptance of the treaty proposed by it. As to the effect and meaning of that treaty, I beg to refer your excellency to the declarations of the Secretaries of State, Messrs. Seward and Fish, as quoted in inclosure No. 4 to this note.

I recognize the fact that the treaty of 1868 did not repeal various stipulations of former treaties, whereby China had conceded certain extraterritorial rights to citizens of the United States; but I think it is also clear that so far as the questions involved in this note are concerned, to wit, the full protection of the laws, punishment for acts of riot, murder, robbery, and arson, and pecuniary indemnity for losses occasioned thereby, American citizens in China have no other and no greater treaty guarantees and rights than Chinese subjects in the United States. They are placed on a common footing with the people of the country. A reference to the treaties and the opinions cited in inclosure No. 4 to this note will, I think, establish the correctness of this position. I do not understand that, in citing Article XI of the treaty of 1858, guaranteeing to Americans in China the protection of the local authorities, and in noting the fact that this provision is not reciprocal, Mr. Blaine designed to assert that an equivalent obligation was not incumbent upon the local authorities of the United States. Neither that distinguished statesman nor any other patriotic citizen of this powerful nation of law and order would admit that any Government of the globe was more ready than the United States to do justice and afford protection to those who had legally entered its territory. Besides, it is expressly stipulated in Article VI of the treaty of 1868, and in Article II of the treaty of 1880, that Chinese subjects in the United States should be treated as those of the most favored nation.

I now ask that your excellency will examine with me what has been the practice of the Government of the United States in respect to the injuries and damages which its citizens have suffered from mob violence and lawless acts in China. The investigation which I have caused to be made has necessarily been confined to the published records of your own Government, as the desire I have had to bring officially to your attention the Wyoming massacre with as little delay as possible has prevented me from availing myself of the voluminous data in the Chinese archives at Peking. Before the year 1858, upon the request and intervention of the American diplomatic and consular representatives, the Chinese provincial and local authorities had, in a considerable number of instances, indemnified American citizens for losses occasioned by riots and violence, but in that year a convention was agreed to whereby the Government of China paid over to that of the United States the sum of \$735,258.97, "in full liquidation of all claims of American citizens." In making that payment my Government did not consider the strict obligations of international law or treaty, but was influenced by a desire to show its appreciation of the friendly conduct of the United States in a time of great trial. It neither examined the evidence upon which the claims were based, nor did it insist upon having a representative on the board which disbursed this large sum. The diplomatic representative of the United States, under instructions from his Government, had declared that the claims were equitable and



just to that amount, and ought to be paid by China, and upon the faith of his representation the payment was made. From an examination of the claims paid out of that fund, an epitome of which accompanies this note as inclosure No. 3, it appears that a large part of them was for losses sustained by mob violence, robbery, and other lawless acts of individual Chinese subjects. While I desire to embrace this opportunity to again recognize the illustrious conduct of the United States in returning to China the unexpended balance of that fund, it is a fact clearly established by the history of the claims convention of 1858 that the Government of the United States demanded and received from the Government of China a large sum of money as indemnification for losses sustained by American citizens in China by mob violence and robbery.

In addition to this, your excellency, in reviewing the correspondence of the American legation and consulates in China, from the date of that convention up to the present day, will find that it has been the constant and uniform practice of the diplomatic and consular representatives, under direct and specific instructions or subsequent approval of the Department of State, to intervene with the Chinese imperial and local authorities in all cases which came to their notice of injuries or losses suffered by American citizens from mob violence, and have asked these authorities not only to punish the offenders but to indemnify the citizens for all their losses. An abstract of some of these cases has been compiled, and is sent with this note, to substantiate its declarations on this point. It will thus be seen that the Government of the United States has insisted upon the direct indemnification by or through the imperial and local authorities for almost all conceivable losses by mob violence and other kindred acts. It has caused losses to be paid for the burning or destruction of houses by mobs; required the local authorities in some cases to rebuild or repair them, even when owned by Chinese and rented to Americans, the rent paid during the time the houses could not be occupied by the Americans on account of the acts of the mob to be made good. It has exacted indemnification by the authorities for the robbing of Americans and the plunder of their houses by mobs; reimbursement of traveling expenses occasioned by fleeing from them; for petty thefts where the perpetrators were unknown or could not be arrested; the return of money or the value of clothing and other property taken from the native helpers or Chinese servants of Americans. It has asked and received from the imperial treasury large sums of money as indemnification for losses to Americans, where the Chinese passengers and crew of merchant vessels have risen and by force seized the vessel and stolen portions of the cargo, or where wreckers or local pirates have plundered vessels in distress. It has sent its consuls and vessels of war to demand the trial of rioters where a single American suffered losses valued at less than \$500; required the infliction of punishment on the guilty in the presence of the representatives of the American Government, and that the rioters should give bond for the future security of American citizens. Its representative has asked for the destruction of prints in interior districts calculated to incite mob violence, the destruction of the block or type, and the punishment of the possessors. Its minister plenipotentiary has intervened with the imperial prince minister to secure the return of sums as small as \$73 stolen from American citizens, and to have the latter guarded with greater vigilance. These acts of intervention on the part of the American Government and its representatives, so often repeated through a long series of years, have been independent of any treaty stipulations

to that effect. Article XI, heretofore referred to, confers upon the United States representatives no greater privileges than are, as I am informed, enjoyed by the consular and diplomatic representatives of foreign nations in the United States without any treaty stipulations; and it gives to American citizens no other or greater protection than is afforded by the laws of China to its own subjects. Notwithstanding this, the Government of the United States has asked for, and that of China has uniformly conceded to, American citizens full indemnity through the imperial or local authorities, for all losses and injuries sustained by mob violence and lawless acts of Chinese subjects.

It cannot be believed that in doing this the United States has required of China that which it would not, in the language of Secretary Fish, expect of a "European or American state under the rules of the equitable code which regulated the intercourse of civilized nations." Neither can it be believed that the United States would so far violate the spirit of the "golden rule," incorporated by it in one of its treaties, or "the usages of national comity," referred to by Mr. Evarts, as to require of China that which under similar circumstances it would not concede to China in reciprocity.

Having thus examined what has been the practice of the Government of the United States towards China on this subject, I trust your excellency will not consider that I exceed diplomatic propriety if I refer to the conduct of the United States with respect to other nations. I regret that this note is already so long, and I will, therefore, confine my reference on this point to one notable instance. I learn from an examination of the published records of your excellency's Government (a memorandum of which is herewith inclosed) that in the year 1851, in consequence of a great excitement created throughout the United States on account of the execution of a considerable number of American citizens by the authorities of Cuba, the indignation against Spain was so great that a mob took place at New Orleans and another at Key West, and the houses of several Spanish subjects were attacked, but the damages done by the mob were confined to the injury of some property, no lives being lost. Without loss of time, the Spanish minister at Washington made a demand for the punishment of the rioters, and "indemnification for damages and injuries inflicted upon Her Catholic Majesty's subjects." To this request the distinguished statesman who occupied the post now so worthily filled by your excellency replied in almost the same terms as those used by Mr. Evarts, in which he took the position that Spanish residents were entitled to no other or greater protection and rights than afforded by the laws and courts to native-born citizens. This answer does not appear to have satisfied the Queen of Spain, and her minister in Washington was instructed to renew his request for indemnity, and he, referring to the friendly relations existing between the two Governments, applied to the "equity and wisdom" of Secretary Webster to provide "a generous remedy," and also invoked the interposition of the President to secure from Congress the indemnification desired. Thereupon the Congress of the United States authorized the Secretary of State to indemnify the Spanish subjects at New Orleans and Key West for all the losses sustained from the lawless mobs at those places, and a large sum of money was paid out of the national Treasury for this object.

Your excellency must not infer from this citation that I regard this act as legal a precedent, binding the United States in all its future national relations. On the contrary, I understand that it was a *voluntary act of good-will, above and beyond the strict authorization of domestic*

*law.* But I do claim that it goes to show that there are high principles of equity and "national comity," rising above the narrow limits of statutory law, which control the action of nations; and I heartily rejoice that the early, constant, and steadfast friend of China, the great and enlightened Government of America, has done so much to bring the nations of the earth up to this high plane of international justice and fair dealing. It is far from my mind to undervalue the friendly relations of any other Government towards the United States, or to lessen the obligations of reciprocal good-fellowship which exists between them; but I would be wanting in my duty to my august sovereign did I admit that any Government has cherished for your excellency's nation more cordial friendship or has been more ready to reciprocate its acts of goodwill than China. If, therefore, in the past the equity and wisdom of the Secretary of State, of his excellency the President, and of the Congress of the United States *have found a way* whereby the obstructions referred to by Messrs. Evarts and Blaine have been overcome as to the subjects of other nations, I do not doubt that an equally efficacious method will be devised for the relief of the subjects of China, especially in view of the fact that the Government of the latter has uniformly and for a long series of years granted, at the request of the Government of the United States, similar relief to its citizens, and that, too, in the face of strong local prejudice and at the cost of many hundreds of thousands of dollars.

I ask the indulgence of your excellency in order to refer to a single further point. I cannot disguise the fact that the presence of Chinese laborers in the United States awakens the hatred and opposition of a certain class of the inhabitants of this country. I am happy to know that neither the Government nor the mass of its citizens share in or sympathize with that hatred. It will be remembered, however, that your excellency's Government, only a few years ago, in order to remove some of the causes of that opposition, sent a special embassy to Peking to ask my Government to modify the treaty of 1868 respecting immigration, and in their conferences with the Chinese plenipotentiaries that embassy gave assurances that if the modifications proposed should be conceded by China, the Chinese laborers then in this country should have ample protection guaranteed to them by a specific treaty stipulation, and that the Government would "construe all such obligations in that spirit of friendly liberality which has marked its relations with the Chinese Government." While it was difficult for the Chinese plenipotentiaries to see why a greater obligation rested on their Government to modify treaty stipulations in respect to Chinese laborers than in respect to American missionaries, for instance, whose presence awakened among certain ignorant and prejudiced Chinese a similar hatred and opposition, nevertheless, upon the faith of the solemn assurances of the American ambassadors, they consented to the treaty modifications desired. (For. Rel., 1881, pp. 173 and 178.) I therefore submit to the recognized candor of your excellency, whether your Government did not thereby incur an increased obligation, if that were possible, to afford ample protection to Chinese laborers, such as those who have been murdered and robbed so cruelly at Rock Springs, Wyoming Territory. In view of the state of public sentiment at that place, and of the failure of justice at Denver, I cannot believe that you will refer my suffering countryman, as their only remedy, to the local courts of that Territory. But calling to mind the conduct of China, and the practice of the United States for a long series of years, you will, in such way as your equity and wisdom may devise, provide an ample and prompt indemnification



for the lives and property of the Chinese subjects sacrificed by the acts of the lawless mob on the 2d of September last.

I do not think it necessary to make any special appeal through your excellency to the august Chief Magistrate of this nation. His sense of justice is so conspicuous, and his conduct towards my country and its people in the United States has been so magnanimous and so praiseworthy, that I am entirely sure he will heartily seek to carry out any recommendation which your excellency may make to him.

Accept, Mr. Secretary, the renewed assurances of my most distinguished consideration.

CHENG TSAO JU.

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[Inclosure in note of November 30, 1885.]

*Report of F. A. Bee, consul at San Francisco, and accompanying documents.*

IMPERIAL CHINESE CONSULATE-GENERAL,  
*San Francisco, September 30, 1885.*

SIR: In accordance with your excellency's instructions, transmitted by telegraph on the 13th day of September, requesting me "to go at once to Rock Springs, Wyoming Territory, and fully investigate the massacre of Chinese subjects that took place on the 2d day of September at that place, and report the result of such investigation to your excellency at the earliest possible moment," I left San Francisco the day following, accompanied by Mr. Huang Sih Chuen, consul at New York, and Mr. Tsang Hoy, interpreter; arriving at Rock Springs on the morning of the 18th, entering at once upon the discharge of our duties. To facilitate our investigations, Consul Huang and Mr. Tsang Hoy took charge of that part relating to all information to be obtained from the Chinese, and confining my duties to obtaining facts from citizens and others.

The result of my investigation is herewith submitted, embodied in the statements of citizens resident there for long periods, and present on the day of the outrages—eye-witnesses, in fact, of one of the most murderous, cruel, and uncalled-for outrages ever perpetrated in any Christian country.

Your excellency will notice by reading the testimony that no grievances are complained of by the miners as against the Chinese; that they had worked for long years together, coming in daily contact with each other, without the slightest complaint ever having been made to the managers or company owning the mines against the Chinese; but, notwithstanding, without a moment's warning, without previous notice, when unsuspecting of danger, in broad daylight, they were attacked by a large body of armed and unarmed miners, estimated at over one hundred, and brutally shot down, their dwellings surrounded, robbed of everything valuable, then set on fire. Those who attempted to escape from their burning buildings were shot down or driven back into the flames. Fifteen remains of those burned have been taken out, not one of which could be identified. There is not the slightest testimony that the Chinese made any resistance whatever. No appeals for mercy were heeded by these human fiends. "No quarter, but shoot them down," was the slogan of these murderers during the massacre of these inoffensive and unarmed Chinese miners.

Your excellency will notice by the testimony that the one fact is set forth and given as the only cause of this outrage, to wit, that the Chinese miners stood in the way of the white miners striking, as they, the Chinese, would not join them in that movement, and hence they must be driven from the mines.

You will also notice that it is not charged that the Chinese came in competition with white miners in the way of cheap labor, as the Chinese are paid the same rates per ton for taking out coal as the white miners. Both classes work upon the same terms, and are governed by the same regulations in all the mines in this Territory when Chinese are employed. Therefore no complaints of this nature can be charged to the Chinese residents.

I am assured by prominent citizens long resident in this Territory that as a class the Chinese residents have always been law-abiding, quiet, and peaceable, promptly complying with all exactions in the payment of taxes, never in any way becoming a tax upon the authorities. It is significant in proof of this, that I am further informed that for ten years past there have been about 1,000 Chinese engaged in coal mining in the Union Pacific Railroad Company's mines in this Territory, and never yet has a Chinese miner been convicted of a felony.

My investigation establishes another fact in connection with this outrage. It appears that the white miners there, who were the authors of the massacre are members of an association known as the "Knights of Labor," whose membership extends over the whole United States, and it is given as a reason for this outrage that when coal miners strike in distant places who are members of this association, such a strike cannot be successful, for the reason that the Chinese coal miners here would largely contribute to that end by supplying coal from these mines for use where the strike is made. I am assured that this has been the case in several instances in the past five years. Hence they claim that the Chinese must be expelled from all the mines along this railroad that a strike whenever made must be effective. This seems to be the only offending of the Chinese. If they would enroll and become members of this organization, or agree to strike with the white miners, no massacre would have taken place. For months past it has been in contemplation to organize a strike among the coal miners in that Territory and adjoining States and Territories, but the Chinese and a few Mormons would not join in this general strike.

It may be of interest to your excellency to know that not one of these murdering fiends was a native of this country, many of them not residents of the United States one year, and but a small number naturalized citizens. Such were the facts I learned from undoubted authority. As an instance, his excellency Governor Warren, governor of the Territory of Wyoming, was waited upon by a committee of miners, who, among other demands made upon him, said that under no circumstances would they permit the Chinese to labor in the coal mines of the Territory. When asked by the governor if they made these demands as citizens, they all had to admit that they were not citizens, and never had been naturalized as such.

Learning that several arrests had been made by the local officers of Rock Springs, I found upon inquiry that the whole proceeding was a burlesque. Several of the murderers were arrested by warrants issued by a justice of the peace residing at that place, and, for the crime of murder and arson, were admitted at once to bail by this officer of the law in the paltry sum of \$500 each. The justice who performed this act is a member of the Knights of Labor, as well as those so arrested.

I am, after a thorough investigation, firmly of the opinion that not one of these criminals who murdered the twenty-eight Chinese, burned and robbed them at Rock Springs on the 2d day of September, will or can ever be brought to punishment by the so-called Territorial or local authorities. In this opinion I am sustained not only by my own convictions, but also by the governor and prosecuting attorney of the Territory and scores of citizens, resident and non-resident. It is not exaggeration to say that no honest resident or non-resident dare openly denounce the acts of these fiends without imperiling his safety, if not his life. Several instances came to my notice when there wherein persons who had given expression to their honest opinions and denounced this outrage were promptly notified in writing to leave the place or suffer the consequences. In obtaining the testimony herewith transmitted to your excellency, it has been a source of great difficulty on account of this terrorism. Therefore, with the present situation of affairs, it is useless to expect the punishment of the guilty wretches who massacred, burned, and robbed the Chinese there.

I call your excellency's attention to the action of the coroner in holding an inquest over the remains of the dead Chinese. You will notice that no effort was made to summon witnesses to even learn the cause of the death of the victims. Only one witness was permitted to testify, and his evidence was only permitted as a matter of form, to establish the fact that the remains were dead. The jury declared that the nationality of the dead was unknown to them. This coroner is the same official that admitted to bail the parties arrested for the murder of the Chinese. These instances of the administration of justice by the local officers is proof positive that any attempt to mete out the deserved punishment for the late outrages would be but a farce. It is the universal opinion of all good citizens, resident and non-resident, that only by the declaration of martial law can these murderers be brought to understand the enormity of their crime and the richly-deserved punishment meted out to them.

Your excellency's attention is called to the correspondence between the general manager of the Union Pacific Railroad and Thomas Weatham, representing the Knights of Labor. I may say in connection with the complaints set forth by the committee, or the so-called grievances, that the Government directors of the Union Pacific thoroughly investigated these complaints at Rock Springs and found them untrue.

In conclusion, it gives me pleasure to inform your excellency that we are under great obligations to the military officers now stationed at that place, as well as the officers of the Union Pacific Railroad, for the aid given your commissioners at all times and under all circumstances, to the end that we might make our investigation thorough. To General A. McD. McCook and Lieutenant Groesbeck, who were, at your excellency's request, detailed by the War Department to accompany the commissioners to Rock Springs, we

are greatly indebted to both officers for the aid and assistance given us. The instructions given to General McCook by the commander, General Howard, accompany this report.

I have the honor to be your excellency's most obedient servant,

FREDERICK A. BEE,

*His Imperial Majesty's Consul at San Francisco, Cal.*

To his excellency CHENG TSAO JU,  
*Chinese Minister, Washington, D. C.*

TESTIMONY OF O. C. SMITH, POSTMASTER.

ROCK SPRINGS, WYOMING TERRITORY,

*September 18, 1885.*

To Colonel BEE:

DEAR SIR: In compliance with your request I give what I know and what I believe to be true in relation to the riot in this place that occurred on the 2d day of this month.

About 9 o'clock in the forenoon on the day mentioned word was brought to me that there was trouble in No. 6 mine between white and Chinese miners. I immediately started to walk there. Half a mile this side of No. 6 mine I found about thirty white miners sitting on the railroad track. About half of them had guns in their hands. I inquired what it meant, and they said there had been a fight in the mine between two white men and some Chinese miners about a room; that the white miners and Chinese had been hurt. I advised them all to go back and go to work, and that if the white men had been wronged by the Chinese to take legal steps to get their rights. I then went on toward the mine to find the foreman and see if I could learn full particulars from him. I found him and heard his statement. I then started back. When I came to where I had passed the white men when going up, I found they had left, and about twenty of them were coming toward this village. I came back to the post-office. About 11 o'clock I saw about thirty miners march by the post-office. I saw no guns at that time. About 2 o'clock p. m. I heard firing in the direction of Chinatown. Went to the depot and got on top of a box-car and saw a mob of men—about sixty white men—running into Chinatown shouting and firing; the Chinese were running out of their houses and running east. Saw that some men fired toward the Chinese and some fired up into the air. I did not see any of the Chinese fall, and at the time I supposed that the firing was only done to scare them. Chinatown is about half a mile north of the depot, where I was standing, too far to distinguish individuals, but I could easily tell a white man from a Chinaman from his dress.

Soon after the Chinese left I saw one of their houses on fire, then another, until eight or ten were burned. Then rumors began to come that several Chinese were killed. Soon after I saw the crowd of white men start to come to this village, heard firing in the direction of a Chinese wash-house, and afterward learned that the owner had been shot. Not knowing what the mob would do next, I went home to my family. Saw them come to a house in the village where a Chinese foreman named Sui Qui lived, but saw no violence there. Later I saw a number of men around the mouth of No. 1 mine slope, and as the Chinese miners came out, I heard shouting and firing, and saw the Chinese run for their lives. That evening, just after dusk, I saw the houses, about forty, in Chinatown take fire one after another and burn. During the next day, September 3, I learned that at least fifteen Chinamen had been killed, some of their bodies nearly burned up in their houses. How many were shot before burning I cannot say or guess, but that some who were sick were burned alive I have no doubt.

There was a complete reign of terror here during the next day. Toward the close of this day, September 3, there were rumors that the Mormons were to be driven out of town that night, and the people were greatly excited; but that night passed and nothing was done.

I have been living in this village since the 29th day of October, 1875. Have been postmaster here since the first of December, 1875. Saw the Chinese brought here in the month of November, 1875, and have seen and dealt with them from that time until the 2d day of this month, when they were driven away. Have paid them for their labor here, and have had more direct dealings with them than any other man here. Have found them as a class quiet and well disposed. Have never heard of their molesting any family, woman, or child here. Have never known of any feeling among the Chinese toward the white miners, only a desire to be let alone. During the time the Chinese have been here there have been several small quarrels in the mines about pit cars and rooms, but these have in most cases been settled by the pit bosses.

During the first six or seven years the Chinese were here I heard few complaints from the white men on account of their employment, some white miners saying they were glad the Chinese were here, as it prevented the formation of a union among the white men;



that they had seen enough of miners' unions and strikes; that they preferred the rule of one intelligent foreman to the tyranny of a hundred ignorant and selfish men.

About two years ago it was reported that a sort of miners' union was being organized among the white men here. Since that time I have heard complaints and grumbings because Chinese were employed here. Hints were thrown out that the Chinese were to be driven out of town, and I have not the least doubt that it was the support of and encouragement given by this union that led to the riot of September 2, referred to before. I would not be understood as saying that all the men, or perhaps very few of them, took part in or approved of the killing and burning that was done; but their joining the union, and, after the crimes were committed, remaining still in such union and expecting benefits from the results of the riot, are inexcusable.

In conclusion, I would say that, in my opinion, the riot was the result of this union referred to among the white miners. Of this I think there can be no doubt in the minds of intelligent men who know the facts.

O. C. SMITH.

Subscribed and sworn to before me this 19th day of September, 1885, at Rock Springs, Wyo.

F. A. BEE,  
*Chinese Consul.*

TESTIMONY OF W. H. O'DONNELL.

Have resided in the Territory since 1868, and Rock Springs over fifteen years. Have been most of the time in the employ of the railroad company.

Was here on the 2d day of September, 1885, the day of the attack upon the Chinese. As to the cause of the massacre, I know of no grievances of any kind. On the part of the white miners there had been symptoms of discontent for some months previous to this trouble. I think the whole origin of the trouble is based upon the fact that Chinese miners were employed, and that no successful strike could be ordered as long as Chinese were employed, as they never would join in a strike. For ten years that Chinese have been employed in these mines there has been no trouble between the two classes worth mentioning. The opinion of the pit bosses is that they have had less trouble with the Chinese miners than with the white. I did not have the least idea that the white miners would attack the Chinese. The first indication of trouble was on the day of the massacre. I saw a body of men coming from No. 6 mine, who marched through the main street, who ordered the saloons closed where liquor is sold. This was in the forenoon of that day. I saw no other demonstration until about 2 or 3 p. m., when they came through again with guns, going to King, Gagen & Matthew's store. From that point they marched toward the Chinese quarter, crossing the Bitter Creek bridge, and attacked the railroad section-men (Chinese), then passed on into the Chinese quarter, keeping up a continuous firing with their arms upon the Chinese until they reached engine-house of No. 3 mine, where they formed again in a body, and then attacked the Chinese houses indiscriminately, the Chinese fleeing to the hills, followed by the white men, who shot them down as they were fleeing. Many remained in their houses, as they evidently knew that if they came out they would be killed. Then I saw one house on fire. They ran several out of the houses, and shot at them as they ran. As soon as the Chinese had been driven off they commenced setting fire to the houses generally, burning the entire Chinese quarter.

The whole number with arms and who committed the murders did not exceed over sixty men. A large number were on the ground who had no arms.

I was ordered to leave town at once, and did so, going east as far as the "Point of Rocks," 24 miles east, returning the next morning on the regular overland train. On my way back I took on the train about sixty Chinese who had escaped, and took them to Evanston. The railroad people gathered up several hundred, and took them to Evanston. There was about four hundred Chinese miners employed here at Rock Springs. I think nearly all of the murderers can be identified, as no concealment was attempted on the part of the murderers, but all done in daylight.

W. H. O'DONNELL.

Sworn to before me at Rock Springs, Wyo., this 19th day of September, 1885.

F. A. BEE,  
*Chinese Consul.*

TESTIMONY OF JAMES H. DICKEY.

I have been a resident of Rock Springs for five months past. Am in the employ of Beckwith, Quinn & Co., and have charge of their store at No. 6 mine. Was there on the 2d day of September, when the Chinese were attacked and driven off by the white miners. The nationality of the men was Welsh, Cornishmen, and Swedes, and from

other foreign countries. Don't know of any Americans being engaged in the trouble or attack. The first thing that attracted my attention on that day was when a Chinaman, named Ah Lip, came out of the mine and went to Mr. Francis's house, he being a pit boss, and requested him to go into the mine and settle some trouble there. Mr. Francis asked him, "What is the matter?" Lip said, "The white miners want to fight the Chinamen." Mr. Francis went with him to the pit. Mr. Francis told me that Mr. Evans had marked off four rooms in No. 5 entry, two for Chinese miners, and Isaiah Whitehouse and William Jenkins went to work in two of the rooms, and the first day put in a shot and left it, not going back that day, but did so the next morning, September 2. On this day the Chinamen went to the rooms that had been assigned to them the day before, and fired the shot that Whitehouse had put in the day before. When he went to the room and found the Chinamen at work the difficulty took place, the Chinamen claiming that the pit boss had assigned the room to them. The two white miners beat the Chinamen in a terrible manner. This took place about 8 o'clock a. m. I saw them taking the wounded Chinamen on a buckboard over towards their houses.

About half past 8 o'clock I saw the white miners come out of the mine and go to Rock Springs, about 45 men all told. No. 6 mine is about half a mile from Chinatown. About three or four o'clock I heard shooting in that direction and saw smoke from the burning buildings. Saw Chinamen on the hills running away. I was telephoned from the Rock Springs store to close the store and come to town at once. The distance is about 2 miles. On my way I saw the white men firing at the Chinese, and saw them running away.

What caused the massacre, in my opinion, is wholly owing to the Chinese refusing to go out on a strike, and as long as Chinamen were employed. The average pay of white miners in No. 6 mine has averaged \$3.55 per day right along about six months. This can be proved by the books. Never heard it charged that the Chinese worked cheaper or for a less price than the white miners.

JAMES H. DICKEY.

Subscribed and sworn to before me this 19th day of September, 1885, at Rock Springs, Wyo.

F. A. BEE,  
*Chinese Consul.*

#### STATEMENT OF A. C. BECKWITH.

I am a member of the firm of Beckwith, Quinn & Co. Our business has been carried on at this place, Rock Springs, for ten years. A branch of our firm is and has been engaged in the furnishing of miners for the Union Pacific Railroad. We have furnished all nationalities, including Chinese. Up to the year 1875 these mines had been worked exclusively by white men. At that time a strike took place by the miners.

We then decided to employ a portion of the force, at least by experiment, comprising Chinese. We obtained about 400 and set them to work, paying them the same wages we paid white men, which we have adhered to up to this time, a period of ten years. The earnings of the Chinese miner will average every day that he works the sum of \$3. The white man averages from three to four dollars per day. There are the names of two white miners on our pay-rolls for the month of August, 1885, whose earnings run over \$100 each for that month. This is common and not an unusual thing, and has been for two years past. There never has been, to our knowledge, any complaint made by the miners against the Union Pacific coal department in reference to the wages of any class of miners. Our firm can say that no complaint has ever been made by the white men against the employment of Chinese. There has been the best of feeling between the two races working in the mines. No complaints of a serious nature have ever been made. Everything has gone on in harmony until the past few weeks.

There are but two nationalities working as laborers in these mines—European and Chinese. The only objection I have ever heard from white miners against the Chinese was that they would not join them in a strike. This seemed to be the whole offending of the Chinese, and until they got rid of them they could never be successful in any strike in Wyoming. There is no doubt but emissaries have been all through the company's mines from Carlin to Ogden stirring up discontent and discord. We have known of this for some time. I know of no grievance that in the least justifies the late outrages.

We as a firm have not brought into these mines any more Chinese the past year than years previous, and those who have been brought here this year were only to fill vacancies.

A. C. BECKWITH.

Rock Springs, September 21, 1885.

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## STATEMENT OF RALPH ZWICKY.

In the forenoon of September 2 our clerk reported from No. 6 mine that a fight had taken place in the mine between white and Chinese miners; that several Chinamen had been seriously hurt, and that the men were all leaving the mines.

About one-half hour afterwards an armed body of men from No. 6 came marching down the track towards the town. At the bridge crossing Bitter Creek the men halted and held a conference. Upon persuasion by a few citizens, they left their arms in the store near by, and continued their march up town and down Front street towards the hall of the Knights of Labor, shouting, while marching, "White men, fall in." Their number was augmented by several tradesmen and miners from other mines. The word was then passed around, "A miner's meeting will be held at 6 o'clock in the evening, to settle the Chinese question." The men then dispersed in the different saloons. It becoming evident that the men were imbibing freely, all stores and saloons agreed not to sell any more intoxicating drinks that day. A good deal of talk was indulged in about making the Chinese leave camp, but no outsider took it seriously. In the afternoon, about 2 o'clock, the same body of men came marching past the store again, armed with their rifles. They crossed the railroad towards the Chinese section-house, driving the men out towards Chinatown. Soon the rioters came abreast the outlying houses of Chinatown, about 150 strong, half of them carrying Winchester rifles. There they halted, as it seemed, for consultation. In a little while several revolver shots were fired, whether by whites or Chinamen I could not say, but I began to realize the seriousness of the situation. What appeared first to be the mad frolic of ignorant men was turning into an inhuman butchery of innocent beings. The rioters now cautiously advanced. Now a rifle shot, followed by another, and still another, was heard, and then a volley was fired. The Chinamen were fleeing like a large herd of hunted antelopes, making no resistance. Volley upon volley was fired after the fugitives. In a few minutes the hill east of the town was literally blue with the hunted Chinamen. In the mean time fire broke out in a China house, and one after another followed in being laid into ashes. Some houses may have caught fire from others, but it was also evident that many separate fires were laid. Shooting and burning continued uninterrupted until no more Chinamen were in sight, and half the houses were gone up in flames.

Towards 5 o'clock the rioters headed for the town again, crossing Bitter Creek, stopping on the bank, where stood a Chinaman's wash-house. The rioters surrounded it, and fired several shots through the roof. It was evident that a poor Chinaman was hid away, for a revolver shot made the crowd more cautious. A good many more shots were fired into the house, and then the bloody work was finished; the poor fellow was shot in the back of the head. The rioters took up their march towards Son Quie's house, in the midst of the town. All the Chinamen being gone, they ordered Son Quie's wife to leave town. From here the rioters went to No. 1 mine. A few poor wretches had sought safety there, but they were driven out, while the rioters fired their rifles into the air. It was too public a place for any rioter to aim low, and this fact probably saved the lives of the Chinamen. The rioters then went to Foreman Evans and told him to leave town first train east; also gave the same order to William H. O'Donnell, foreman of the Chinese, and employed by Beckwith, Quinn & Co.

The first act was now over, and the rioters dispersed for supper. But it was plain to be seen that their bad blood was up, and could only be cooled down by further destruction. A little after nightfall the firing of the remaining China houses commenced, and continued until after midnight. All this time men, women, and children were engaged in looting and plundering. The next morning a horrible sight presented itself to the visitor in Chinatown. In one place lay three burnt bodies, and one or two in several others. One body was almost eaten up by hogs. It had been roasted by the fire. Another body, shot through the back, lay in the sage-brush, and others were found in different directions. Altogether the number of those known to have lost their lives reached twenty-one. Thirty-nine houses were burnt at No. 3 mine, with a large number of dugouts belonging to Chinamen. Five houses were burnt at No. 6 mine, and one section house in town.

*The immediate cause of the riot* was the occupation of two rooms by Chinese which white miners claimed had been given to them by Foreman Evans and Pit Boss Brookman. As the Chinese would not vacate the rooms, a fight ensued, in which many white miners took part. As a statement of the parties connected with the affair is contradictory, and my knowledge is based upon hearsay, I would respectfully refer to the testimony given before the Government directors. My belief, however, is that there was no intention of defrauding white miners or of favoring Chinese, but that there was a misunderstanding of the orders by Evans and Brookman.

*A remoter cause of the riot* was the importation of Chinese miners during the summer, and non-employment of white men coming to town. The reason for this was the coal



company feared a strike of white miners, and to prevent this introduced more Chinamen. All white miners belonging to Rock Springs had work at good wages.

The *grievances of white miners* adduced to have led to the riot are favoritism of the Chinese against white men by pit bosses and officials of the coal company. Of this I have no personal knowledge, except that one boss, McBride, was discharged from the employment of the coal company, it having been proven that he sold rooms. I would again refer to the testimony before the Government directors.

In conclusion let me say, that there is no grievance or argument that can be offered in behalf of white miners to justify even the mere driving out of the Chinamen, much less to justify such inhuman butchery. The Chinamen, as I know them, are inoffensive and peaceable workmen. The white miners have earned good wages all summer, and very likely could not earn more if the Chinese were gone. That it may have been exasperating to white men to see alien labor employed, I admit. The remedy, however, was not in killing them, but in compromise, arbitration, or legislation.

This statement I submit as an eye-witness, and to the best of my knowledge and belief.

Yours,

RALPH ZWICKY,

*Manager Rock Springs Store of Beekwith, Quinn & Co.*

Subscribed and sworn to before me this 18th day of September, 1885, at Rock Springs, Wyo.

F. A. BEE,  
*Chinese Consul.*

CERTIFICATE OF DR. E. D. WOODRUFF.

ROCK SPRINGS, WYO.,  
*September 18, 1885.*

The following is a memorandum of bodies examined by me since September 2, 1885, at Rock Springs, Wyo.:

September 3, 1885, a. m., dressed gunshot wound of left hip for Chinaman, and left him in fair way of recovery.

September, 3, 1885, p. m., at coroner's inquest held by John Ludvigsen, acting coroner:

Body No. 1. Chinaman at wash-house. Gunshot through head.

Body No. 2. Chinaman near Chinatown, No. 3 mine. Gunshot through neck. Fractured neck, severing carotid artery.

Body No. 3. Chinaman near Chinatown, No. 3 mine, in edge of creek. Gunshot left thigh through femoral region, cutting femoral artery.

Body No. 4. Chinaman near Chinatown, No. 3 mine. Gunshot left chest above heart.

Bodies Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15. Only charred remains found in the ruins of the burned buildings formerly occupied by Chinese. Bodies supposed to be those of Chinamen, but burned beyond identification.

September 12, 1885, Chinatown, No. 3 mine. Charred remains of four bodies. Two of same known to be Chinamen from part of the hair remaining, two being burned beyond identification.

Some of said charred bodies were found in a standing posture, with the heads shoved far into holes in the walls in cellars, and none were found in the ruins of the main buildings.

E. D. WOODRUFF, M. D.

My sworn testimony before coroner as to cause of death was as follows:

No. 1, gunshot through head.

No. 2, hemorrhage, result of gunshot wound.

No. 3, hemorrhage, result of gunshot wound.

No. 4, hemorrhage and exhaustion, result of gunshot wound.

Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, probable cause of death from exposure to fire.

Also four bodies found September 12, 1885. Probable cause of death, exposure to fire.

E. D. WOODRUFF, M. D.,

*Rock Springs, Wyo.*

CORONER'S PROCEEDINGS.

TERRITORY OF WYOMING,

*Sweetwater County, Rock Springs Precinct, ss:*

[Justice's court, before John Ludvigsen, justice of the peace, acting coroner.]

ROCK SPRINGS, WYO., *September 3, 1885.*

Being notified of three bodies lying dead at or near the north side of Bitter Creek, in Rock Springs, Sweetwater County, Wyoming Territory, I ordered an inquest to be held.

The following-named persons were summoned as jurors in said inquest, to wit: E. S. Murrey, William Harcombe, John Gagan, William Musgrove, W. G. Heits, and O. S. Johnson.

The jury being sworn according to law, the following was subpoenaed as witness, to-wit: E. D. Woodruff, M. D.

The jurors having inspected the bodies, heard the testimony, and made all needful inquiries, they returned their inquisition in writing under their hands, the following:

We, the undersigned, members of the jury, being duly sworn, state, that Chinamen Nos. 2, 3, and 4 came to their death from gunshot wounds, the cause of the same being unknown to us.

EDW. S. MURRAY, *Foreman*.  
WILLIAM HARCOMBE.  
W. G. HEITS.  
JOHN GAGAN.  
WILLIAM MUSGROVE.  
O. S. JOHNSON.

I therefore discharged jury, and ordered the bodies to be buried decently according to law. No property or effects found on the bodies.

JOHN LUDVIGSEN,  
*Justice of the Peace, Acting Coroner.*

TERRITORY OF WYOMING,  
*Sweetwater County, Rock Springs Precinct, ss:*

[Justice's court, before John Ludvigsen, justice of the peace, acting coroner.]

ROCK SPRINGS, WYO.,  
*September 3, 1885.*

Being notified of a dead body lying at Rock Springs China wash-house, in Rock Springs, Sweetwater County, Wyoming Territory, I ordered an inquest to be held. The following-named persons were duly summoned as jurors in said inquest, to wit: E. S. Murrey, William Harcombe, John Gagan, William Musgrove, W. G. Heits, and O. S. Johnson.

The jury being sworn according to law, the following witness was subpoenaed: E. D. Woodruff, M. D.

The jurors having inspected the body, heard the testimony, and made all needful inquiries, they returned their inquisition in writing under their hands the following:

We, the undersigned, members of the coroner's jury, from evidence before us, state that the deceased came to his death from a gunshot wound in the head, by some means unknown to the jury.

EDW. S. MURREY, *Foreman*.  
WILLIAM HARCOMBE.  
JOHN GAGAN.  
WILLIAM MUSGROVE.  
W. G. HEITS.  
O. S. JOHNSON.

I therefore discharged the jury, and ordered the body to be buried decently, according to law.

No property or effects found on the body.

JOHN LUDVIGSEN,  
*Justice of the Peace, Acting Coroner.*

TERRITORY OF WYOMING,  
*Sweetwater County, Rock Springs Precinct, ss:*

[Justice's court, before John Ludvigsen, justice of the peace, acting coroner.]

ROCK SPRINGS, WYO., *September 3, 1885.*

Being notified of eleven bodies laying dead in Chinatown, in Rock Springs, Sweetwater County, Wyoming Territory, I ordered an inquest to be held.

The following-named persons were duly summoned as jurors in said inquest, to wit: E. S. Murrey, William Harcombe, William G. Heits, John Gagan, William Musgrove, and O. S. Johnson.

The jury being sworn according to law, the following witness was subpoenaed: E. D. Woodruff, M. D.

The jurors, having inspected the bodies, heard the testimony, and made all needful inquiries, they returned their inquisition in writing under their hands the following:

We, the undersigned, members of the coroner's jury, from the evidence before us, state that human bodies Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 came to their death from exposure to fire, the nationality of said bodies being unknown to us, as they were defaced beyond recognition.

EDW. S. MURREY, *Foreman*.  
 WILLIAM HARCOTBE.  
 WM. G. HEITS.  
 JOHN GAGAN.  
 WILLIAM MUSGROVE.  
 O. S. JOHNSON.

I therefore discharged the jury, and ordered the bodies to be buried decently, according to law.

No property or effects found on the bodies.

JOHN LUDVIGSEN,  
*Justice of the Peace, Acting Coroner.*

**TERRITORY OF WYOMING,**  
*Sweetwater County, Rock Springs Precinct, ss :*

[Justice's court, before John Ludvigsen, justice of the peace, acting coroner.]

ROCK SPRINGS, WYO., September 12, 1885.

Being notified of four dead bodies found dead in Chinatown, in Rock Springs, Sweetwater County, Wyoming Territory, I ordered an inquest to be held.

The following-named persons were duly summoned as jurors in said inquest, to wit: Thomas Whitmore, A. B. Benson, Albert Keirlie, L. L. Dane, John Petersen, and C. Andersen.

The jury being sworn according to law, the following witness was subpoenaed: E. D. Woodruff, M. D.

The jurors having inspected the bodies, heard the testimony, and made all needful inquiries, they returned their inquisition in writing under their hands the following:

We, the undersigned, having been duly empaneled as a coroner's jury to inquire into the cause of the death of the four (4) persons whose names are unknown, do find, after inquiry, that said parties must have come to their death by fire.

TOM WHITMORE, *Foreman*.  
 A. B. BENSON.  
 ALBERT KEIRLE.  
 L. L. DANE.  
 JOHN PETERSEN.  
 C. ANDERSEN.

I therefore discharged the jury, and ordered the bodies to be buried decently, according to law.

No property or effects found on the bodies.

LUDVIGSEN,  
*Justice of the Peace, Acting Coroner.*

#### MILITARY INSTRUCTIONS.

[Copies of telegrams received by Col. A. McD. McCook, Sixth Infantry, Brevet Major-General, U. S. Army, at Camp Murray, 14 miles from Wauship Station and 21 miles from Coolville, the nearest telegraph station.]

OMAHA, NEBR.

Colonel McCook, *Sixth Infantry*:

Arrange to keep in quick telegraphic communication with department headquarters. It is possible some of the troops under your command may be needed in connection with riots of coal miners along Union Pacific Railroad in Wyoming. Have you plenty of ammunition? How long will it take infantry to reach railroad?

By command of General Howard.

BRECK,  
*Asst. Adjutant-General.*

A true copy.

A. McD. MCCOOK,  
*Colonel Sixth Infantry, Brevet Major-General, U. S. A.*

NOTE.—The telegraph operator seems to have omitted the date to this telegram. It was received at Wauship Station, Utah, on the evening of September 5. I, Lieut. S.



W. Groesbeck, adjutant Sixth Infantry, then at Wauship Station, in the name of General McCook, made all necessary arrangements for quick delivery of telegrams by mounted messengers from Wauship Station (the nearest railroad station) to Camp Murray.

OMAHA, NEBR., September 7, 1885.

Colonel McCook,  
*Sixth Infantry, Camp Murray:*

Have six companies in readiness to move, with ten days' rations and necessary ammunition, in case they are needed in connection with miners' riots along Union Pacific in Utah. Have an understanding with local railroad officials so that everything may be planned to move promptly. It is hoped there will be no occasion to call on your troops, but it may be necessary. Keep in quick communication with telegraph. Do not move without further orders. Acknowledge receipt.

By command General Howard.

BRECK,  
*Assistant Adjutant-General.*

A true copy.

A. McD. MCCOOK,  
*Colonel Sixth Infantry, Bvt. Maj. Gen. U. S. Army.*

OMAHA, NEBR., September 8, 1885.

Colonel McCook,  
*Camp Murray, via Coolville:*

Send six companies of your command without delay to Wauship Station, where cars will be in waiting by four o'clock to-day to take them to Evanston to report for duty to Lieutenant-Colonel Anderson. The troops under Lieutenant-Colonel Anderson at Evanston and Lieutenant-Colonel Chipman at Rock Springs have been ordered to protect Chinese laborers against lawless violence, and need prompt assistance. Give the six companies ten days' rations and the necessary ammunition. Acknowledge and report letters of companies.

By command General Howard.

BRECK,  
*Assistant Adjutant-General.*

A true copy.

A. McD. MCCOOK,  
*Colonel Sixth Infantry, Brevet Major-General, U. S. A.*

NOTE.—The foregoing telegram was received at Camp Murray at 4.30 p. m., same day as its date, and at 6.30 the troops were in march for Wauship Station, where they took trains for Evanston a little after midnight.

OMAHA, NEBR., September 12, 1885.

General McCook, *Camp Murray:*

Two Chinese consuls and their interpreter, from San Francisco, will go to Rock Springs, Wyo., to make investigation into the late disturbances. The Secretary of War directs that the consul shall be met at Ogden by two suitable officers from the garrison of Fort Douglas, so as to secure the consuls from harm or insult, and procure them kind treatment while making the investigation and while traveling. The commanding officer at Rock Springs will be instructed to furnish any necessary guard. Select carefully two suitable officers for this duty from your command and order them at once to Ogden. If General McCook would go himself as one of the officers, there would be no concern here as to the success of his mission, but unless he is willing he is not ordered. Acknowledge receipt and report the names of the officers, so that orders may be issued here to cover their mileage. Further instructions will be sent care of Captain Ingalls at Ogden, where the consuls will await the arrival of the officers.

By command General Howard.

BRECK,  
*Assistant Adjutant-General.*

A true copy.

A. McD. MCCOOK,  
*Colonel Sixth Infantry, Brevet Major-General, U. S. A.*

[Copy of telegram.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,  
Omaha, Nebr., September 13, 1885.Captain INGALLS,  
*Depot Quartermaster, Ogden, Utah:*

Give the following instructions for the officers who go with the Chinese consuls to Rock Springs to them when they reach Ogden:

Your duty will be, in accordance with the instructions of the Secretary of War, to accompany the consuls to Rock Springs, attend them while they are there making their investigation into the late disturbances, and return with them to Ogden, and to take every possible precaution to preserve them from harm or insult, and to see that they are treated with every courtesy and kindness during the whole time. Take no chances of failure in this duty. This dispatch will be authority to call on the commanding officers at Evanston and Rock Springs for any escorts or guards you may need. Spare no pains to make this duty a success.

Report frequently each day by telegram your progress and so forth. Acknowledge receipt, and telegraph when you leave Ogden.

By command General Howard:

BRECK,  
*Assistant Adjutant-General.*

A true copy.

A. McD. MCCOOK,  
*Brevet Major-General, U. S. A.*CORRESPONDENCE OF MANAGER OF UNION PACIFIC RAILROAD COMPANY AND KNIGHTS  
OF LABOR.

DENVER, COLO., September 19, 1885.

*To General Manager and President of the Union Pacific Railway:*

GENTLEMEN: We, the undersigned executive committee of employés of the Union Pacific Railway, wish to submit for your consideration the accompanying report. We believe the matter contained in it materially affects our well-being, as well as the company's interest.

Since the introduction of Chinese labor great discontent has prevailed amongst all sections of your employés. On account of their being used for the upsetting of time-honored usages and the introduction of what we believe to be insidious innovations on our rights and liberties, have unsettled our minds and is preventing the due performance of our labor. The working of a great system like the Union Pacific Railroad cannot be recklessly tampered with, as has been done, without doing harm to all concerned, and we feel persuaded that as American citizens you would think us unworthy of name if we tamely submitted to the kind of treatment detailed in the accompanying report.

We respectfully submit that to adequately meet the case, the removal of the Chinese from the system, and the removal of Beckwith, Quinn & Co., and D. O. Clark, from authority is required. Nothing less, we believe, will suffice to prevent a repetition of the treatment or beget that feeling which we believe to be essentially necessary to subside between the company and their employés.

Further, if this request be complied with, we will assist the company to get good, reliable white miners to fill the places of the Chinese, and do everything that is just to help the company.

THOMAS NEASHAM,  
*Chairman Knights of Labor.*J. N. CORBIN, *Secretary.*

## REPORT.

We respectfully report that we are in possession of information that satisfies us beyond a doubt that the white miners at Rock Springs have been subjected to robbery and other ill treatment at the hands of superintendent and mine bosses.

(1) They have been robbed of their rights by being turned out of their places in the mine and Chinese put into the same.

(2) They have been made to work where Chinese would not work.

(3) Their places have been bought by Chinese giving as far as \$100 to the mine boss for the same.

(4) They have been robbed by false weights being used to weigh their coal.

(5) They have been discharged because they refused to vote for Mrs. Tisdal for school superintendent.

(6) They have been compelled to buy their goods of Beckwith, Quinn & Co., when they could have procured them cheaper elsewhere.

To tell all that the white miners have been subjected to by the parties named in our letter would take up too much of your time to read, and knowing that you will get the evidence from another quarter, we can only add that we trust that you will give it your most earnest attention.

Respectfully, yours,

COMMITTEE OF EMPLOYÉS.  
THOMAS NEASHAM,  
*Chairman.*

J. N. CORBIN, *Secretary.*

OMAHA, September 22, 1885.

MR. THOMAS NEASHAM,

*Chairman Executive Committee Union Pacific Employés, Denver:*

DEAR SIR: Your letter of September 19 came duly to hand, and as it was addressed to the president of the company as well as to me, it has been forwarded to the former gentleman at Boston.

You say that "since the introduction of Chinese labor great discontent has prevailed amongst all classes of your (our) employés." You seem to forget during our numerous conferences no dissatisfaction was ever expressed on this account, and that at the last meeting with your chairman and some members of the Omaha committee, held in my office but a few days prior to the recent outbreak, gratification was expressed by them at the absence of any cause for complaint, and at the general harmony prevailing between the managers and other employés of the company. I beg also to remind you that Chinese were employed long before labor difficulties of any kind were known upon the Union Pacific, and that their employment was resorted to originally, not from choice, but as an absolute necessity in maintaining the road-bed and keeping the coal mines in operation.

The labor difficulties experienced by the Union Pacific Company prior to the recent outbreak have had no connection with or relation to the Chinese question, so far as known to me.

You prefer certain charges against the firm of Beckwith & Quinn and Mr. D. O. Clark, the general superintendent of the coal department, and demand their removal. It is the policy and purpose of the present management to give earnest and patient investigation and consideration to specific charges made against any of its officers or employés, but it will demand proofs and insist upon any party so accused having a fair opportunity to defend himself. In this particular case it might also be well to bear in mind that these charges have been preferred by men at Rock Springs, who are attempting to justify to the American people a most atrocious massacre and wanton destruction of property.

You also demand the removal of the Chinese from the service. When the company can be assured against strikes and other outbreaks at the hands of persons who deny its owners the right to manage their property, it may consider the expediency of abandoning Chinese labor; but under all circumstances and at any cost or hazard it will assert its right to employ whom it pleases and refuse to ostracise any one class of its employés at the dictation of another.

Yours, faithfully,

S. R. CALLAWAY,  
*General Manager.*

PRESS ACCOUNT OF THE RIOT.

*The exodus!—The true story of the Chinese exodus.*

On Wednesday, September 3, all the Chinese in Rock Springs, to the number about 600, were driven out of camp by the long suffering miners. The true story of their expulsion is as follows:

The feeling against them has been getting stronger all summer. The fact that the white men had been turned off the sections and hundreds of white men were seeking in vain for work, while the Chinese were being shipped in by the car-load and given work, strengthening the feeling against them. It needed but little to incite this feeling into an active crusade against them, and that little came Wednesday morning at 6. All the entries at No. 6 were stopped the first of the month, and Mr. Evans, the foreman, marked off a number of rooms in the entries. In No. 5 entry eight Chinamen were working, and four rooms were marked off for them; in No. 13 Mr. Whitehouse and Jenkins were working, and Evans told them they could have rooms in that entry or in No. 11 or 5. They chose No. 5, and when they went to work Tuesday, Dave Brookman, who was



acting as pit boss in Mr. Francis's absence, told them to take the first rooms marked off. He supposed the Chinamen had begun work on their rooms, and that Whitehouse and Jenkins would take the next rooms beyond them. But as the two first rooms in the entry had not been commenced, Whitehouse took one, not knowing they had been given to the Chinamen. He went up town in the afternoon, and in his absence the two Chinamen came in and began work in the room Whitehouse had started. Wednesday morning when Whitehouse came to work two Chinamen were in possession of what he considered his room. He ordered them out, but they would not leave what they thought was their room. High words followed, then blows. The Chinese from other rooms came rushing in, as did the whites, and a fight ensued with picks, shovels, drills, and needles for weapons. The Chinamen were worsted, four of them being badly wounded, one of whom has since died. A number of white men were severely bruised and cut. An attempt was made to settle the matter, but the men were excited and bound to go out. They accordingly came out, armed themselves with rifles, shotguns, and revolvers, to protect themselves from the Chinese, they said, and started up town. After coming through Chinatown they left their guns behind them and marched down the front street and dispersed about noon.

In the mean time all was excitement in Chinatown. The flag was hoisted as a warning, and the Chinamen gathered to their quarters from all parts of the town, being gently urged by chunks of coal and brickbats from a crowd of boys. After dinner all the saloons were closed and a majority of the men from all the mines gathered into the streets. Most of them had fire-arms, although knives, hatchets, and clubs were in the hands of some. It was finally decided that John must go then and there, and the small army of 60 or 70 armed men, with as many more stragglers, went down the track toward Chinatown. On the way they routed out a number of Chinese section men, who fled for Chinatown, followed by a few stray shots. When the crowd got as far as No. 3 switch they sent forward a committee of three to warn the Chinamen to leave in an hour. Word was sent back that they would go, and very soon there was a running to and fro and gathering of bundles that showed John was preparing to move out. But the men grew impatient. They thought John was too slow in getting out, and might be preparing to defend his position. In about half an hour an advance was made on the enemy's works, with much shooting and shouting. The hint was sufficient. Without offering any resistance, the Chinamen snatched up whatever they could lay their hands on and started east on the run. Some were bareheaded and barefooted, others carried a small bundle in a handkerchief, while a number had rolls of bedding. They fled like a flock of frightened sheep, scrambling and tumbling down the steep banks of Bitter Creek, then through the sage-brush and over the railroad and up into the hills east of Burning Mountain. Some of the men were engaged in searching the houses and driving out the stray Chinamen who were in hiding, while others followed up the retreating Chinamen, encouraging their retreat with showers of bullets fired over their heads.

All the stores in town were closed, and men, women, and children were out watching the hurried exit of John Chinaman, and every one seemed glad to see them on the wing. Soon a black smoke was seen issuing from the peak of a house in "Hong-Kong," then from another, and very soon eight or ten of the largest of the houses were in flames. Half choked with fire and smoke numbers of Chinamen came rushing from the burning buildings, and with blankets and bed-quilts over their heads to protect themselves from stray rifle shots they followed their retreating brothers into the hills at the top of their speed. After completing their work here the crowd came across to Ah Lee's laundry. There was no sign of a Chinaman here at first, but a vigorous search revealed one hidden away in a corner, but he would not or dare not come out. Then the roof was broken through and shots fired to scare him out, but a shot in return showed the Chinaman was armed. A rush through the door followed, then came a scuffle and a number of shots, and looking through an opening in the roof a dead Chinaman was seen on the floor with blood and brain oozing from a terrible wound in the back of his head.

[Rock Springs Independent,\* Official paper of Sweetwater County. Independent Publishing Company, proprietors; Norman B. Dresser, editor.]

Foreman Evans was next visited and told to leave on the evening train. He quietly said he would go. He afterward asked to be allowed to stay till the next day to get his things ready, but a vote of the men decided against allowing this favor, and about four hours after Mr. Evans left for the East. The crowd next visited the house of Soo Qui, a boss Chinaman, but Soo had gone to Evanston, and only his wife was in the house. She came to the door much terrified, and with tearful eyes and trembling voice said, "Soo he go; I go to him." The assurance of the men that she could stay in the house and would not be harmed did not calm her fears. She did not like the looks of the armed crowd, and gathering a small armful of household treasures she left and was afterward

taken in by a neighbor. Then a few Chinamen working in No. 1 came out and were hustled up the hills after their fleeing brothers.

"Well, gentlemen, the next thing is to give Mr. O'Donnell notice to leave, and then go over to No. 6," said one of the men in the crowd. But the crowd was slow in starting on this errand. A large number seemed to think this was going too far, and of the crowd that gathered in front of O'Donnell's store the majority did not sympathize with this move. But at somebody's orders a note ordering O'Donnell to leave was written and given to Gotsche, his teamster.

Joe Young, the sheriff, came down Green River in the evening, and guards were out all night to protect the property of the citizens in case of a disturbance. But everything was quiet in town. Over in Chinatown, however, the rest of the houses were burned, the whole of them, numbering about forty, being consumed to the ground. The Chinese section house and also the houses at No. 6 were burned, and Chinamen were chased out of nearly all the burning buildings. All the night long the sound of rifle and revolver was heard, and the surrounding hills were lit by the glare of the burning houses.

\* \* \* \* \*

A look around the scenes of the previous day's work revealed some terrible sights Thursday morning. In the smoking cellar of one Chinese house the blackened bodies of three Chinamen were seen. Three others were in the cellar of another, and four more bodies were found near by. From the position of some of the bodies it would seem as if they had begun to dig a hole in the cellar to hide themselves. But the fire overtook them when about half way in the hole, burning the lower extremities to a crisp and leaving the upper portion of the body untouched. At the east end of Chinatown another body was found charred by the flames and mutilated by hogs. The smell that arose from the smoking ruins was horribly suggestive of burning flesh. Further east were the bodies of four more Chinamen, shot down in their flight; one of them had tumbled over the bank and lay in the creek with face upturned and distorted. Still further another Chinaman was found, shot through the hips, but still alive. He had been shot just as he came to the bank, and had fallen over and lay close to the edge of the bank. He was taken up town and cared for by Dr. Woodruff. Besides this two others were seriously wounded, and many who got away were more slightly hurt. The trains to-day have picked up a large number of Chinamen on the track and taken them west.

[From Rock Springs Independent.]

*The return!—Three hundred soldiers protecting them—Chinatown to be rebuilt—United and determined action needed.*

It was rumored Wednesday noon that the Chinese were on their way back to Rock Springs. Few believed the rumor, as it was not thought they could be induced to return.

But about 2 o'clock a passenger train came in bearing two hundred armed soldiers. Closely following was a freight train of twenty-two cars loaded with 650 of the hated Chinese, the latter train switching off and going toward No. 3 mine, where the Chinese disembarked, and hurried over to the ruins of their houses. They began digging in the cellars, and soon unearthed a large amount of money. Six thousand dollars in gold and silver was dug up from one cellar, and as much more from another, where it had been concealed before their flight.

Numbers of them soon came up town. Some looked bold and defiant, while others were evidently fearful of being attacked, but no demonstration was made against them. The cars were afterward brought down the track to a point near the soldiers camp, where the Chinamen built fires, had supper, and spent the night.

The action of the company in bringing back the Chinese means that they are to be set to work in the mines, and that American soldiers are to prevent them from again being driven out.

It means that all the white miners in Rock Springs, except those absolutely required, are to be replaced by Chinese labor.

It means that the company intended to make a "Chinatown" out of Rock Springs, as they proposed to the Almy miners last Monday.

It means that Rock Springs is killed, as far as white men are concerned, if such programme is carried out.

[From Salt Lake Tribune.]

*At Rock Springs.—A special Tribune representative on the ground.*

After the massacre on September 2 the bodies of twenty-five Chinese were gathered and buried on a portion of the burnt district. The bodies were exhumed and placed in

\* This paper is the organ of the white miners.

coffins, and given burial in the Chinese cemetery, while the Government directors were here, and they had an opportunity to see the ghastly remains. Probably no more horrible mortuary scene ever presented itself to man than this. Trunks and limbs of human beings, showing the work of fire-arms, knives, bludgeons, and of fire, mingled in one mass of putrefaction when all had been gathered together. On many the skulls were mashed in and brains protruded. Regarding the number killed, and who have perished from fright and starvation, or died from their wounds, it is doubtful whether the full list will ever be made known, but it is known that twenty-five have been buried; that in all forty-eight are missing, including these twenty-five, and it is believed that fifteen are dead in the hills. One Chinaman, who came in after living out several days, reports that two of his comrades died, and before he left them the coyotes had begun to devour the bodies. This is probably one incident in a half dozen or more. The Chinaman who reported this when he came in was so nearly famished that he lay down by a tub and drank as if he would never be able to quench his dreadful thirst, and, being wounded in his foot, went away for treatment, and cannot now be found.

INVESTIGATION BY THE GOVERNMENT DIRECTORS OF THE UNION PACIFIC RAILROAD.

[From Omaha Tribune-Republican, September 19, 1885.]

CHEYENNE, WYO., *September 18.*

Three of the Government directors, General E. P. Alexander, M. A. Hanna, and James W. Savage, are at Rock Springs, investigating the circumstances attending the late outbreak. They gave a hearing yesterday to a committee of citizens who had previously presented their case to Mr. Bromley, the representative of the company. The case was presented in a much better shape than upon the former occasion, and the causes of complaint were made more intelligible and clear. Nothing new, however, appeared as to the alleged grievance against the Chinese or against the employers of the miners.

The same rule was observed with regard to the circumstances immediately connected with the outrages. All the witnesses refused to say anything whatever concerning the attack upon the Chinamen and the burning of their quarters. The examination was chiefly conducted by Judge Savage, who was materially assisted therein by Mr. Hanna, who is himself a mine owner, and familiar with the subject of miners' grievances. Every opportunity has been furnished the citizens and miners to present their grievances. The Government directors decided upon the facts as shown to send the following dispatch to Secretary Lamar:

"The undersigned, Government directors of the Union Pacific Railway, pursuant to law, report that we have made an investigation upon the spot into the alleged outrages recently occurring at this place. We find such a condition of affairs here as in our opinion endangers the property of the road, jeopardizes the interests of the Government, and calls for prompt interference. We, therefore, deem it important that full authority should be given to the proper officers to afford ample assistance to the managers in their efforts to protect the property of the company and conduct the business of the road.

"E. P. ALEXANDER.

"M. A. HANNA.

"JAMES W. SAVAGE."

[From Salt Lake Tribune, September 20, 1885.]

*That bloody deed.*

The inhabitants of this vicinity are all very much interested in the Rock Springs outrage committed on the Chinamen several weeks ago, and the Tribune, desirous of laying before its readers the facts as near as can be gathered at this time, deputed one of its representatives to call on the three Union Pacific Government directors, who arrived in this city yesterday from Rock Springs, where they have been investigating the circumstances attending the late outbreak. The distinguished gentlemen are M. A. Hanna, of Cleveland, Ohio; E. P. Alexander, of Augusta, Georgia, and Judge James W. Savage, of Omaha. In the afternoon they visited Fort Douglas and the several buildings in the Temple Block into whose sacred precincts the footsteps of the ungodly gentiles are permitted to enter, and, after a well-enjoyed dinner, were found in excellent spirits, prepared to submit to a series of questions and cross-questions. The replies were given in an open, frank, and unreserved manner, and each gentleman vied with the other in giving all the facts that would tend to elucidate the condition of affairs at Rock Springs to-day.

"Did you come West purposely to investigate this matter?" asked the reporter.

"No, sir; we were on a tour of inspection of the road, and went to Rock Springs at the solicitation of a committee of citizens and miners of that place, who telegraphed us, ask-



ing us to stop there. On Thursday last we examined into the story of these gentlemen, and yesterday (Friday) we heard the statement made by the Chinese consul at New York, Colonel Bee, and a number of Chinamen who had been wounded on the night of that awful and unjustifiable massacre."

\* \* \* \* \*

"Is that true that most of the attacking party of miners were aliens?"

"Quite true. We found, upon investigation, that there was not an American-born citizen among them. Their nationalities were English, Welsh, Scotch, Irish, and Scandinavian, their numbers predominating in the order named."

"Colonel Bee intimates that the attempt to bring the offenders to trial will be abortive, on account of the jurors being all, or nearly all, from Rock Springs. What do you think of it?"

"It is a fact that of the sixteen grand jurors eleven are from Rock Springs. This, however, is nothing unusual, nor is it the fault of the sheriff, nor do I think Colonel Bee intended to complain of that. Rock Springs is the largest town in the county, and it would be impossible to get a grand jury at all unless drawn from the city people, for the other inhabitants of the county live at distances varying from 25 to 50 miles, over difficult roads to the court-house, and would rather pay their fines than attend court. The sheriff of Sweetwater appeared to be a competent man, desirous of doing his simple duty. He told us it would have been utterly impossible to have obtained the services of three men to suppress the riot or maintain order after the riot was suppressed, and that it was at his instigation that Governor Warren called out the troops. There are now about ninety soldiers on duty, being small detachments from three regiments. These soldiers are overworked, and although able to suppress any disorder ought to be re-enforced. It was for this reason, among others, that we telegraphed to Secretary Lamar the message, a copy of which appeared in this (Saturday) morning's Tribune."

"The white laborers said the Chinese were sober, industrious, quiet, timid, and thrifty. One man, who had worked with them in the same mine for eight years, declared that he never had any quarrel with them, and had never but once known of their having a difficulty with anybody. On the occasion of our examination they were temperate in their expressions, and confident in the belief that they would be protected in the future. We heard no word of bitterness from any one of them. The witnesses smiled as they showed their wounds and told the story of their escapes with an amused expression, as though surprised themselves at the outbreak."

"Will the white men engaged in the riot be taken back in the Union Pacific's employ?"

"No, sir. Only sixteen have been arrested, so far, under the law, and forty-five have been discharged as being participants in the riot. Of those discharged the company will take back any who can establish their innocence. Notice has been given that mines Nos. 3 and 4 will be started on Monday next. At present no work is being done at the mines."

"Will you make a special report on this affair to the Government?"

"No, sir; but we will make a note of it in our report to the Secretary of the Interior, which is required to be made annually about November 1."

In reply to numerous other questions the courteous gentleman stated that the people of Rock Springs are willing to concede that the killing was unfortunate, but they had yet to hear of any inhabitant of that place who thought that the massacre was wicked or wrong. Indeed, the citizen who was willing to concede that it was unfortunate said he could not help but rejoice when he saw the Chinese fleeing.

The directors could not tell how long the troops would be kept at Rock Springs, but thought if removed now another outrage would follow. The Chinamen are lodged in box cars near the encampment of the troops.

#### THE RESULT OF THE JUDICIAL INVESTIGATION.

[From the Chicago Tribune, October 8, 1885.]

*Nobody responsible for the Rock Springs outrages.*

CHEYENNE, WYO., October 7.

The grand jury of Sweetwater County found no indictments against the Rock Springs rioters. It made the following report:

"We have diligently inquired into the occurrence at Rock Springs on the 2d day of September last, and though we have examined a large number of witnesses, no one has been able to testify to a single criminal act committed by any known white person that day. Whatever crimes may have been committed, the perpetrators thereof have not been disclosed by the evidence before us; and, therefore, while we deeply regret the circumstance, we are wholly unable, acting under the obligations of our oaths, to return

indictments. We have also inquired into the causes that led to the outbreak at Rock Springs. While we find no excuse for the crimes committed, there appears to be no doubt of abuses existing that should have been promptly adjusted by the railroad company and its officers. If this had been done, the fair name of our Territory would not have been stained by the terrible events of the 2d of September."

The Union Pacific Railway Company is now employing Mormons at its mines at Almy and Rock Springs.

[Associated Press telegram.]

ROCK SPRINGS, WYO., *October 7.*

There is great excitement here over the release of the alleged rioters. The accused were met on their return from Green River last night by several hundred men, women, and children, and treated to a regular ovation. The mines are turning out about half the usual quantity of coal.

[From the Alta-California, San Francisco, October 10.]

THE WYOMING MASSACRE—WHY NO INDICTMENTS WERE FOUND AGAINST THE RIOTERS—A DERELICT PROSECUTION—CONSUL BEE REITERATES HIS STATEMENT THAT EVERY MURDERER COULD HAVE BEEN IDENTIFIED BY THE GRAND JURORS.

As has been already announced by telegraph, the grand jury of Sweetwater County, Wyoming Territory, failed to find any indictment against any of the parties engaged in the recent massacre of Chinese at Rock Springs. It will be remembered that when Consul Bee returned from his investigation of the murderous assault upon the Mongolian residents of Rock Springs he predicted that no indictments would be returned by the grand jury. Of this he was most confident, because of the terrorism prevailing in that district, and because the grand jury would most likely be empaneled from the very mob which committed the cowardly murders. Yesterday an Alta reporter called upon Consul Bee and asked him what he thought of the grand jury's report. "Think of it?" said Colonel Bee, "think of it? Why, they never tried to indict any one. See, here is what they say:

"We have diligently inquired into the occurrence at Rock Springs on the 2d day of September last, and though we have examined a large number of witnesses, no one has been able to testify to a single criminal act committed by any known person on that day. Whatever crimes may have been committed there, the perpetrators thereof have not been disclosed by the evidence before us, and therefore, while we deeply regret the circumstance, we are wholly unable, acting under the obligation of our oaths, to return indictments."

"To show you what sort of a grand jury that must have been, I will simply state that I myself have nine affidavits of railroad employes, merchants, and superintendents of the mine, who saw every house fired from first to last. I told United States District Attorney Campbell, who was specially deputed by the Attorney-General to investigate the massacre, that if he would guarantee proper protection I would furnish him Chinese witnesses who could identify every white engaged in the assault. He said he would attend to the matter and let me know. He then went off to Evanston, and I have never seen or heard from him since. There was no attempt on the part of the prosecuting officers to indict; they did not want any indictments returned, thanks to the reign of terror. You must remember that these Chinese and white miners have been working together for the last eight years, and are a trifle more than familiar with each other's countenances. All the white miners, as well as the Chinese, were paid off by an American firm, and the head of that concern, as well as two or three clerks, could have identified every one of the rioters.

"Whatever crimes may have been committed," say the jurors, "the perpetrators thereof have not been discovered." Now, to expose the falsity of the statement let me tell you what took place before the Government railroad directors, M. A. Hanna, of Cleveland, Ohio; E. P. Alexander, of Augusta, Ga., and Judge J. W. Savage, of Iowa. When these gentlemen began their investigations they desired the evidence of Chinese witnesses, and requested me to furnish such witnesses. They assured me that the Chinamen should be protected while giving their testimony, and I then produced the witnesses. The first Chinaman who testified had a deep cut fully 6 inches long on his scalp, and he was also shot through the fleshy part of his left arm. After obtaining the general facts as to the riot, Judge Savage asked the witness how he got the cut on his head. The Chinaman said he was struck on the head with a pick-handle and knocked senseless, and that after he recovered consciousness he started to run away and was shot. Judge Savage then said, "Can you recognize the man who struck you on the head?" and the answer was prompt and unhesitating: "Oh, yes; I have known him a long time."

'Can you give his name?' was then asked, and the witness at once replied, 'Isaiah Whitehouse.' Now," continued Colonel Bee, "this man Whitehouse is an ignorant, bigoted Mormon, and a member of the legislature. He was the only available man in the district who could be nominated for the legislature. There is in that locality a colony of some twenty five Mormon families. This honorable gentleman is in all probability the man who struck the first blow in the riot.

"Why, Mr. Reporter, I assure you upon my honor that I did not find a single one of the people of Rock Springs who spoke of the murders as wrong or wicked. Perhaps they did not dare to. But even those who did say the affair was unfortunate and to be regretted, added that they could not help rejoicing when they saw the Chinese fleeing for their lives from their burning cabins. Would you expect in such a community that there would be any indictment found against a white man who might murder a Chinaman? Had the prosecuting officers done their sworn duty I could easily have furnished them more than a hundred witnesses, both white and Chinese, who would have identified every individual rioter."

[Inclosure 2 in note of November 30, 1885.—Translation.]

*Report of the Chinese consul at New York and accompanying documents.*

CHINESE CONSULATE-GENERAL,  
San Francisco, Cal., October 5, 1885.

SIR: I have the honor to state that in compliance with your excellency's instructions, I proceeded with Col. F. A. Bee, Chinese consul at San Francisco, and Mr. Tseng Hoy, interpreter, to Rock Springs, where we arrived on the 18th September, 1885, for the purpose of investigating the present condition of our countrymen in the latter place, and of ascertaining the facts connected with the recent riot that took place there against them.

As soon as we reached Rock Springs we ordered the remains of those Chinese killed in the riot to be disinterred and examined. We had fourteen coffins dug up, on opening which we found some bodies entire, some parts of bodies, the bones of separate bodies, and promiscuous heaps of bones; and we also dug up the remains of one without a coffin. Inquiring of the coroner at Rock Springs, he stated that since the 3d of September he had examined and interred nineteen persons, and I found that the Union Pacific Railroad Company had interred the remains of two. Besides five entire bodies, the remains of eight others were recognizable, while the bones of eight others were found wrapped up in separate bundles. We had, therefore, exhumed in all the remains of twenty-one persons. Besides these, the bodies or bones of four more persons were dug out of the ruins of buildings after our arrival, making a total of twenty-five persons whose remains have been found thus far. The examination of all these remains was made in the presence of the United States officials and others. According to the testimony given by the Chinese laborers there were twenty-eight Chinese killed in the riot, though the bodies or the bones of only twenty-five have been found. The coroner of Rock Springs, of whom I made inquiry, stated that some of the dead bodies may have disappeared, while the opinion of the Chinese laborers was that the bodies missing were either completely burnt or eaten by dogs and hogs, or left in the wilderness. It is, however, a fact that none of the surviving Chinese ever saw any of the twenty-eight Chinese who are now on the list of the killed succeed in reaching a place of safety. The Chinese laborers further stated that the country around Rock Springs for many miles is a barren wilderness, with no road except the railroad, and without habitation, vegetation, or water, and that even if the three missing Chinese had not been consumed by the flames they must have perished in some other way, since fifteen days have passed without their being seen. A list of the names of the twenty-eight Chinese killed, with the facts connected with each, is herewith inclosed.

Omitting those whose wounds have healed since the riot, I find that there are fifteen Chinese more or less severely wounded, several of whom, it is feared, will die, and several be disabled for life. A list of the wounded, with the facts of each, is herewith inclosed.

With reference to the property destroyed by the mob, I find that every one of the surviving Chinese has been rendered penniless by the cruel attack. There are three reasons why the Chinese so completely lost their property: 1st, most of them when fleeing had no time to gather up their money, and those that did carry money with them were forcibly deprived of it by the mob; 2d, what they left in their houses was either plundered or burnt; 3d, the huts which they built for themselves were completely destroyed.

Since the riot took place it has been impossible for them to secure even a torn sheet or any article of clothing to protect them from the cold, or even the crumbs from the



table to satisfy their hunger, or even a plank or mat to rest their bodies on. These poor creatures, numbering hundreds, are all hungry and clothed in rags. They look worn out and frightened, and most of them forlorn and absent-minded. Words fail to give an idea of their sufferings, and their appearance is a sad one to human eyes to witness.

Upon making inquiries as to the past I found that the Chinese so savagely and unmercifully deprived of their property had been in Rock Springs, some for over ten years, others for a shorter time, for the purpose of working in mines or on railroads. Some of the Chinese locating at Rock Springs were afterwards joined by their fathers, brothers, or other relations, all settling themselves there as colonists, while others came with their goods for the purpose of peddling or trading. In the course of time they had built for themselves more than seventy huts, and the Union Pacific Railroad Company had also built more than thirty camp houses for its employés, thus forming quite a town. This town is now nothing but a mass of ruins.

The total value of the property lost, belonging to over seven hundred persons, is only about \$147,000, this being an average of only a little more than \$200 for each. I have concluded that no one has made any fraudulent claim.

In addition to the two inclosures heretofore mentioned, I beg to inclose for your consideration a list of the claims of the Chinese, and for your information a copy of the memorial addressed to me while at Rock Springs by five hundred and fifty-nine Chinese.

I am, your obedient servant,

HUANG SIH CHUEN,  
*Chinese Consul at New York.*

His excellency CHENG TSAO JU,  
*H. I. C. Majesty's Envoy Extraordinary and Minister Plenipotentiary.*

*Memorial of Chinese laborers resident at Rock Springs, Wyoming Territory, to the Chinese consul at New York of the examining commission.*

[Translation.]

ROCK SPRINGS, WYO., September 18, 1885.

Hon. HUANG SIH CHUEN,  
*Chinese Consul:*

YOUR HONOR: We, the undersigned, have been in Rock Springs, Wyoming Territory, for periods ranging from one to fifteen years, for the purpose of working on the railroads and in the coal mines.

Up to the time of the recent troubles we had worked along with the white men, and had not had the least ill-feeling against them. The officers of the companies employing us treated us and the white men kindly, placing both races on the same footing and paying the same wages.

Several times we had been approached by the white men, and requested to join them in asking the companies for an increase in the wages of all, both Chinese and white men. We inquired of them what we should do if the companies refused to grant an increase. They answered that if the companies would not increase our wages we should all strike, then the companies would be obliged to increase our wages. To this we dissented, wherefore we excited their animosity against us.

During the past two years there has been in existence in "Whitemen's Town," Rock Springs, an organization composed of white miners, whose object was to bring about the expulsion of all Chinese from the Territory. To them or to their object we have paid no attention. About the month of August of this year notices were posted up, all the way from Evanston to Rock Springs, demanding the expulsion of the Chinese, &c. On the evening of September 1, 1885, the bell of the building in which said organization meets rang for a meeting. It was rumored on that night that threats had been made against the Chinese.

On the morning of September 2, a little past 7 o'clock, more than ten white men, some in ordinary dress, and others in mining suits, ran into coal-pit No. 6, loudly declaring that the Chinese should not be permitted to work there. The Chinese present reasoned with them in a few words, but were attacked with murderous weapons, and three of their number wounded. The white foreman of the coal-pit, hearing of the disturbance, ordered all to stop work for the time being.

After the work had stopped, all the white men in and near Coal-pit No. 6 began to assemble by the dozen. They carried fire-arms, and marched to Rock Springs by way of the railroad from Coal-pit No. 6, and, crossing the railroad bridge, went directly to "Whitemen's Town." All this took place before 10 o'clock a. m. We now heard the bell ringing for a meeting at the white men's organization building. Not long after all the white men came out of that building, most of them assembling in the bar-rooms, the crowds meanwhile growing larger and larger.

About 2 o'clock in the afternoon a mob, divided into two gangs, came toward "Chinatown," one gang coming by way of the plank bridge, and the other by way of the railroad bridge. The gang coming by way of the railroad bridge was the larger, and was subdivided into many squads, some of which did not cross the bridge, but remained standing on the side opposite to "Chinatown;" others that had already crossed the bridge stood on the right and left at the end of it. Several squads marched up the hill behind Coal-pit No. 3. One squad remained at Coal-shed No. 3 and another at the pump-house. The squad that remained at the pump-house fired the first shot, and the squad that stood at Coal-shed No. 3 immediately followed their example and fired. The Chinese by name of Lor Sun Kit was the first person shot and fell to the ground. At that time the Chinese began to realize that the mob were bent on killing. The Chinese, though greatly alarmed, did not yet begin to flee.

Soon after, the mob on the hill behind Coal-pit No. 3 came down from the hill, and joining the different squads of the mob, fired their weapons and pressed on to Chinatown.

The gang that were at the plank bridge also divided into several squads, pressing near and surrounding "Chinatown." One squad of them guarded the plank bridge in order to cut off the retreat of the Chinese.

Not long after it was everywhere reported that a Chinese named Leo Dye Bah, who lived in the western part of "Chinatown," was killed by a bullet, and that another named Yip Ah Marn, resident in the eastern end of the town, was likewise killed. The Chinese now, to save their lives, fled in confusion in every direction, some going up the hill behind Coal-pit No. 3, others along the foot of the hill where Coal-pit No. 4 is; some from the eastern end of the town fled across Bitter Creek to the opposite hill, and others from the western end by the foot of the hill on the right of Coal-pit No. 5. The mob were now coming in three directions, namely, the east and west sides of the town and from the wagon road. Whenever the mob met a Chinese they stopped him, and pointing a weapon at him, asked him if he had any revolver, and then approaching him they searched his person, robbing him of watch or any gold or silver that he might have about him, before letting him go. Some of the rioters would let a Chinese go after depriving him of all his gold and silver, while another Chinese would be beaten with the butt end of the weapons before being let go. Some of the rioters, when they could not stop a Chinese, would shoot him dead on the spot, and then search and rob him. Some would overtake a Chinese, throw him down and search and rob him before they would let him go. Some of the rioters would not fire their weapons, but would only use the butt ends to beat the Chinese with. Some would not beat a Chinese, but rob him of whatever he had and let him go, yelling to him to go quickly. Some, who took no part either in beating or robbing the Chinese, stood by, shouting loudly, and laughing and clapping their hands.

There was a gang of women that stood at the "Chinatown" end of the plank bridge and cheered; among the women, two of them each fired successive shots at the Chinese. This was done about a little past 3 o'clock p. m.

Most of the Chinese fled towards the eastern part of "Chinatown." Some of them ran across Bitter Creek, went up directly to the opposite hill, crossing the grassy plain. Some of them went along the foot of the hill, where Coal-pit No. 4 stood, to cross the creek, and by a devious route reached the opposite hill. Some of them ran up to the hill of Coal-pit No. 3, and thence, winding around the hills, went to the opposite hill. A few of them fled to the foot of the hill where Coal-pit No. 5 stood, and ran across the creek, and thence, by a winding course, to the western end of the "Whitemen's Town." But very few did this.

The Chinese who were the first to flee mostly dispersed themselves at the back hills, on the opposite bank of the creek, and among the opposite hills. They were scattered far and near, high and low, in about one hundred places. Some were standing, or sitting, or lying hid on the grass, or stooping down on the low grounds. Every one of them was praying to Heaven, or groaning with pain. They had been eye-witnesses to the shooting in "Chinatown," and had seen the whites, male and female, old and young, searching houses for money, household effects, or goods, which were carried across to "Whitemen's Town." Some of the rioters went off toward the railroad of Coal-pit No. 6; others set fire to the Chinese houses. Between 4 o'clock and a little past 9 o'clock p. m. all the camp houses belonging to the coal company and the Chinese huts had been burned down completely, only one of the company's camp houses remaining. Several of the camp houses near Coal-pit No. 6 were also burned, and the three Chinese huts there were also burned. All the Chinese houses burned numbered seventy-nine.

Some of the Chinese were killed at the bank of Bitter Creek, some near the railroad bridge, and some in "Chinatown." After having been killed, the dead bodies of some were carried to the burning buildings and thrown into the flames. Some of the Chinese who had hid themselves in the houses were killed and their bodies burned; some who,

on account of sickness, could not run, were burned alive in the houses. One Chinese was killed in "Whitemen's Town," in a laundry house, and his house demolished. The whole number of Chinese killed was twenty-eight, and those wounded fifteen.

The money that the Chinese lost was that which in their hurry they were unable to take with them, and consequently were obliged to leave in their houses, or that which was taken from their persons. The goods, clothing, or household effects remaining in their houses were either plundered or burned.

When the Chinese fled to the different hills they intended to come back to "China-town" when the riot was over, to dispose of the dead bodies and to take care of the wounded. But to their disappointment, all the houses were burned to ashes, and there was then no place of shelter for them; they were obliged to run blindly from hill to hill. Taking the railroad as their guide, they walked toward the town of Green River, some of them reaching that place in the morning, others at noon, and others not until dark. There were some who did not reach it until the 4th of September. We feel very thankful to the railroad company for having telegraphed to the conductors of all its trains to pick up such of the Chinese as were to be met with along the line of the railroad and carry them to Evanston.

On the 5th of September, all the Chinese that had fled assembled at Evanston; the native citizens there threatened day and night to burn and kill the Chinese. Fortunately, United States troops had been ordered to come and protect them, and quiet was restored. On the 9th of September, the United States Government instructed the troops to escort the Chinese back to Rock Springs. When they arrived there they saw only a burnt tract of ground to mark the sites of their former habitations. Some of the dead bodies had been buried by the company, while others, mangled and decomposed, were strewn on the ground, and were being eaten by dogs and hogs. Some of the bodies were not found until they were dug out of the ruins of the buildings. Some had been burned beyond recognition. It was a sad and painful sight to see the son crying for the father, the brother for the brother, the uncle for the nephew, and friend for friend.

By this time most of the Chinese have abandoned the desire of resuming their mining work, but inasmuch as the riot has left them each with only the one or two torn articles of clothing they have on their persons, and as they have not a single cent in their pockets, it is a difficult matter for them to make any change in their location. Fortunately, the company promised to lend them clothing and provisions, and a number of wagons to sleep in. Although protected by Government troops, their sleep is disturbed by frightful dreams, and they cannot obtain peaceful rest.

Some of the rioters who killed the Chinese and who set fire to the house could be identified by the Chinese, and some not. Among them the two women heretofore mentioned, and who killed some Chinese, were specially recognized by many Chinese. Among the rioters who robbed and plundered were men, women, and children. Even the white woman who formerly taught English to the Chinese searched for and took handkerchiefs and other articles. The Chinese know that the white men who worked in Coal-pit No. 1 did not join the mob, and most of them did not stop work either. We heard that the coal company's officers had taken a list of the names of the rioters who were particularly brutal and murderous, which list numbered forty or fifty.

From a survey of all the circumstances, several causes may be assigned for the killing and wounding of so many Chinese, and the destruction of so much property.

(1) The Chinese had been for a long time employed at the same work as the white men. While they knew that the white men entertained ill-feelings toward them, the Chinese did not take any precautions to guard against this sudden outbreak, inasmuch as at no time in the past had there been any quarrel or fighting between the races.

(2) On the 2d day of September, 1885, in Coal-pit No. 6, the white men attacked the Chinese. That place being quite a distance from Rock Springs, very few Chinese were there. As we did not think that the trouble would extend to Rock Springs, we did not warn each other to prepare for flight.

(3) Most of the Chinese living in Rock Springs worked during the daytime in the different coal mines, and consequently did not hear of the fight at Coal pit No. 6, nor did they know of the armed mob that had assembled in "Whitemen's town." When 12 o'clock came everybody returned home from his place of work to lunch. As yet the mob had not come to attack the Chinese; a great number of the latter were returning to work without any apprehension of danger.

(4) About 2 o'clock the mob suddenly made their appearance for the attack. The Chinese thought that they had only assembled to threaten, and that some of the company's officers would come to disperse them. Most of the Chinese, acting upon this view of the matter, did not gather up their money or clothing, and when the mob fired at them they fled precipitately. Those Chinese who were in the work-shops, hearing of the riot, stopped work and fled in their working clothes, and did not have time enough



to go home to change their clothes or to gather up their money. What they had left at home was either plundered or burned.

(5) None of the Chinese had fire-arms or any defensive weapons, nor was there any place that afforded an opportunity for the erection of a barricade that might impede the rioters in their attack. The Chinese were all like a herd of frightened deer that let the huntsmen surround and kill them.

(6) All the Chinese had on the 1st of September bought from the company a month's supply of provision and the implements necessary for the mining of coal. This loss of property was therefore larger than it would be later in the month.

We never thought that the subjects of a nation entitled by treaty to the rights and privileges of the most favored nation could, in a country so highly civilized like this, so unexpectedly suffer the cruelty and wrong of being unjustly put to death, or of being wounded and left without the means of cure, or of being abandoned to poverty, hunger, and cold, and without the means to betake themselves elsewhere.

To the great President of the United States, who, hearing of the riot, sent troops to protect our lives, we are most sincerely thankful.

In behalf of those killed or wounded, or of those deprived of their property, we pray that the examining commission will ask our ministers to sympathize, and to endeavor to secure the punishment of the murderers, the relief of the wounded, and compensation for those despoiled of their property, so that the living and the relatives of the dead will be grateful, and never forget his kindness for generations.

Hereinabove we have made a brief recital of the facts of this riot, and pray your honor will take them into your kind consideration.

[Here follow the signatures of 559 Chinese laborers, resident at Rock Springs, Wyo.]

#### *List of killed.*

[Investigation made by Huang Sih Chuan, Chinese consul at New York, of the Chinese examining commission of Chinese laborers killed at Rock Springs, Wyoming Territory, September 2, 1885.]

The said Huang Sih Chuan submitted the following report :

I examined the dead bodies of the following Chinese laborers killed at Rock Springs

1. The dead body of Leo Sun Tsung, found in his own hut in the native settlement: was covered with many wounds. The left jaw-bone was broken, evidently by a bullet; The skin and bone of the right leg below the knee were injured. I also ascertained that the deceased was 51 years old, and had a mother, wife, and son living at home (in China) t

2. The dead body of Leo Kow Boot was found between mines Nos. 3 and 4, at the foot of the mountain. The neck was shot through crosswise by a bullet, cutting the wind pipe in two. I also ascertained that the deceased was 24 years old. His family connections have not yet been clearly made known.

3. The dead body of Yii See Yen was found near the creek. The left temple was shot by a bullet, and the skull broken. The age of the deceased was 36 years. He had a mother living at home (in China).

4. The dead body of Leo Dye Bah was found at the side of the bridge, near the creek, shot in the middle of the chest by a bullet, breaking the breast bone. I also ascertained that the deceased was 56 years old, and had a wife, son, and daughter at home.

5. The dead body of Choo Bah Quot was found in the hut adjoining camp No. 34, together with the remains of Lor Han Lung. The front part of the body was not injured, but the flesh on the back was completely gone, and the bones were scorched; the hair was also burned off. I also ascertained that the deceased was 23 years old, and had parents living at home.

The above five bodies were found more or less mutilated.

6. A portion of the dead body of Sia Bun Ning was found in a pile of ashes in the hut near the Chinese temple. It consisted of the head, neck, and shoulders. The two hands, together with the rest of the body below the chest, were completely burned off. I also ascertained that the deceased was 37 years old, and had a mother, wife, son, and daughter living at home.

7. A portion of the dead body of Leo Lung Hong was found in a pile of ashes in hut adjoining camp No. 27. It consisted of the head, neck, and breast. The two hands, together with rest of the body below the waist, were burned off completely. I also ascertained that deceased was 45 years old, and had a wife and three sons living at home.

8. A portion of the dead body of Leo Chih Ming was found in a pile of ashes in the hut of the deceased, near the temple where the remains of Liang Tsum Bong and Hsu Ah Cheong were found. It consisted of the head and chest. The hands, together with the rest of the body below the waist, were burned off completely. I also ascertained that deceased was 49 years old, and had a mother, wife, and son living at home; also another son working with him in the coal mines.

9. A portion of the dead body of Liang Tsun Bong was found in a pile of ashes in the hut near the temple where the deceased, together with Leo Chih Ming and Hsu Ah Cheong had lived. It consisted of the head, shoulders, and hands. The rest of the body below the chest was burned off completely. The age of the deceased was 42 years. He had a wife and two sons living at home.

10. A portion of the dead body of Hsu Ah Cheong was found in a pile of ashes in the hut near the temple where the deceased, together with Leo Chih Ming and Liang Tsun Bong, had lived. It consisted of the skull bone, the upper and lower jaw bones, and teeth. I also ascertained that the deceased was 32 years old, and had parents, wife, and son living at home.

11. A portion of the dead body of Lor Han Lung was found in the hut adjoining No. 34, where the remains of Choo Bah Quot was also found. It consisted of the sole and heel of the left foot. The rest of the body was completely burned. I also ascertained that the deceased was 32 years old, and had a mother, wife, son, and daughter all living at home.

12. A portion of the dead body of Hoo Ah Nii was found in a pile of ashes in his own hut. It consisted of the right half of a head and the backbone. The rest of the body was completely burned. I also ascertained that the deceased was 43 years old, and had a wife living at home.

13. A portion of the dead body of Leo Tse Wing was found in a pile of ashes in the hut adjoining camp No. 14. It consisted of the bones of the lower half of the body, extending from hip to foot. The rest of the body was burned off completely. I also ascertained that the deceased was 39 years old. His family connection has not yet been clearly made known.

The last-named eight dead bodies were found partly destroyed by fire.

The following fifteen persons were killed: Leo Jew Foo, Leo Tim Kwong, Hung Qwan Chuen, Tom He Yew, Mar Tse Choy, Leo Lung Siang, Yip Ah Marn, Leo Lung Hon, Leo Lung Hor, Leo Ah Tsun, Leang Ding, Leo Hoy Yat, Yuen Chin Sing, Hsu Ah Tseng, and Chun Quan Sing. Twelve fragments of bones, belonging to twelve of the above-named persons, were found in twelve different places in the Chinese settlement. No trace of the remaining three persons was found.

I also ascertained that the age of Leo Jew Foo was 35 years; he had a mother at home. Leo Tim Kwong was 31 years; family connection not known. Hung Qwan Chuen was 42 years; he had a father at home. Tom He Yew was 34 years; he had a mother, wife, and daughter at home. Mar Tse Choy was 34 years; he had parents, wife, and daughter at home. Leo Lung Siang was 36 years; he had a wife at home. Yip Hor Marn was 38 years; he had a father, wife, son, and daughter at home. Leo Lung Hon was 41 years; he had a wife, son, and daughter at home. Leo Lung Hor was 44 years; he had a wife and two sons at home. Leo Ah Tsun was 36 years; he had a mother at home. Liang Ding was 41 years; family connection not yet known. Leo Hoy Yat was 25 years; he had parents at home. Yuen Chun Sing was 36 years; he had a mother at home. Hsu Ah Tseng was 26 years; he had a mother at home. Chun Quan Sing was 39 years; he had a mother at home. Total number of killed, twenty-eight.

#### *List of wounded.*

[Investigation made by Huang Sih Chun, consul at New York, of the Chinese examining commission of Chinese laborers wounded at Rock Springs, Wyoming Territory, September 2, 1885.]

The said Huang Sih Chun reported as follows: On the 19th and 20th of September, 1885, I investigated and found the following Chinese laborers wounded at Rock Springs, W. T.:

(1) Leo Kwong Ning was wounded in the back below his right shoulder by a bullet, causing a deep, wide wound. The bullet could not be extracted. Fatal result is feared.

(2) Lee Sing Yip was wounded in the back on the right shoulder by a bullet, piercing through from the back to the front, below the shoulder. The shoulder bone was broken and the wound badly inflamed. Fatal result is feared.

(3) Lee Ah Hok was wounded in the upper part of his right leg by a bullet piercing through from back to front. The bone was broken, the wound deep and wide, badly inflamed, and difficult to be healed. He was unable to stand up and the loss of the entire use of his right leg is feared.

(4) Won Yin Sung was wounded below his left knee by a bullet piercing through from back to front, breaking the bone. The wound was badly inflamed and difficult to be healed. He could not walk, the left leg being entirely useless to him.

(5) Lee Hok Sing was wounded in the upper part of his right leg by a bullet piercing through from right to left. The bone of the leg was fractured; the wound deep and wide, hard to be healed. The loss of the entire use of the leg is feared.

(6) Lor Hung Hoon was wounded in the upper part of the left arm by a bullet piercing through from right to left. The bone was broken, the wound badly inflamed, and

difficult to be healed. He was unable to move his left arm. The loss of the use of it is feared.

(7) Lor Sun Kit was wounded in the right side of his backbone by a bullet piercing from the back through the right side. The right arm was also wounded. The bullet was extracted by a native doctor. These two wounds were not yet healed, but badly inflamed.

(8) Leo Duck Yun was wounded in the right leg by a gunshot. The bullet could not be extracted.

(9) Leo Yip Sun was wounded in the right shoulder by a bullet piercing through from the back to the front below the shoulder. The wound was not yet healed.

(10) Leo Mun Yip was shot through in the palm of his right hand by a bullet. The wound was not yet healed.

(11) Lor See Duck was wounded in the spine below the waist by a gunshot. The bullet was extracted, but the wound not yet healed.

(12) Leo Lung Ming was wounded in the scalp, both sides of the forehead, the right temple, the right and left sides below the nipples, and the part below the right knee. These wounds were deep, with bones exposed. He also received a wound on the left cheek-bone and one on the right thumb. All the above wounds appear to have been inflicted by iron implements. They were all being slowly healed, with the exception of the right knee, which was very seriously injured.

(13) Leo Kung Kwong was wounded in the right temple by iron implements. The bone was exposed, but the wound was gradually being healed.

(14) Leo Gar Kwong was wounded in the left forehead, apparently by a wooden cane. The wound was slowly being healed.

(15) Leo Ah Go was wounded in the left cheek-bone and the part below the left eye by stones. The wounds were already healed.

*Estimate of property losses, made by the commission, sustained by the Chinese residents in their respective camps at Rock Springs, Wyoming Territory, September 2, 1885.*

| CAMP No. 2.                                           |                 | CAMP No. 4.                                           |                 |
|-------------------------------------------------------|-----------------|-------------------------------------------------------|-----------------|
|                                                       | Estimated loss. |                                                       | Estimated loss. |
| 1. Lin Pah Cheong                                     | \$25 00         | 23. Leo Quan Kwong                                    | \$223 40        |
| 2. Chang Foo Mow                                      | 47 00           | 24. Leo Hung Hoo                                      | 101 50          |
| 3. Chang Chay Sing                                    | 38 00           | 25. Leo Win Kwong                                     | 178 15          |
| 4. Tung Gar Jok                                       | 43 75           | 26. Leo Ah See                                        | 51 25           |
| 5. Tom Tin Ting                                       | 34 75           | 27. Leo Ah Hor                                        | 28 50           |
| 6. Leo Ah Cheong                                      | 17 00           | 28. Leo Kwong Hoo                                     | 126 45          |
| 7. Hung Quan Chuen (killed)                           | 532 25          | 29. Wong Foo Teen                                     | 211 50          |
| 8. Tom Hee Yow                                        | 423 70          | 30. Leo Sun King                                      | 61 00           |
| 9. Mar Tse Choy                                       | 115 75          | 31. Leo Hin Ying                                      | 194 05          |
| 10. Liang Tung                                        | 220 00          | 32. Leo Kwang Sung                                    | 42 45           |
| 11. Property owned in common by persons in Camp No. 2 | 268 95          | 33. Leo Won Yit                                       | 85 20           |
|                                                       |                 | 34. Property owned in common by persons of Camp No. 4 | 277 40          |
| Total                                                 | 1,766 15        | Total                                                 | 1,580 85        |
| CAMP No. 3.                                           |                 | CAMP No. 5.                                           |                 |
|                                                       |                 |                                                       |                 |
| 12. Leo Lung Hop                                      | 196 00          | 35. Liang Ah Bing                                     | 212 65          |
| 13. Leo Lung Yu                                       | 133 50          | 36. Liang Ah Yun                                      | 91 35           |
| 14. Leo Kwong Yit                                     | 139 00          | 37. Liang Ah Whay                                     | 97 20           |
| 15. Leo Ying Sing                                     | 114 50          | 38. Liang Ah Choy                                     | 67 25           |
| 16. Leo Ah Sow                                        | 120 25          | 39. Oh Ah Yit                                         | 72 25           |
| 17. Leo Hin Wing                                      | 133 50          | 40. Woo Ah Dye                                        | 55 75           |
| 18. Leo Lung Hong (killed)                            | 200 00          | 41. Liang Ah Nung                                     | 80 50           |
| 19. Leo Lune Ming (wounded)                           | 243 50          | 42. Liang Day Ying                                    | 117 00          |
| 20. Leo Gar Kwong (wounded)                           | 180 70          | 43. Liang Ah Yik                                      | 72 00           |
| 21. Leo Kwong Ning (wounded)                          | 119 00          | 44. Liang Ah Hoon                                     | 92 85           |
| 22. Property owned in common by persons of Camp No. 3 | 219 40          | 45. Low Hing Kwang                                    | 109 75          |
|                                                       |                 | 46. Cheng Ah Sum                                      | 101 50          |
| Total                                                 | 1,799 35        | 47. Property owned in common by persons of Camp No. 5 | 221 85          |
|                                                       |                 | Total                                                 | 1,391 90        |



## CAMP No. 6.

Estimated loss.

|                                                       |         |
|-------------------------------------------------------|---------|
| 48. Leo Sun Lung                                      | \$46 50 |
| 49. Leo Kway Wah                                      | 73 50   |
| 50. Leo Yeh Yung                                      | 212 15  |
| 51. Leo Sing He                                       | 34 50   |
| 52. Leo Ying Lung                                     | 251 50  |
| 53. Leo Lung He                                       | 198 50  |
| 54. Leo Lin Ngok                                      | 80 50   |
| 55. Leo Tsing Lung                                    | 50 00   |
| 56. Property owned in common by persons of Camp No. 6 | 187 00  |

Total ..... 1,134 15

## CAMP No. 7.

|                                                       |        |
|-------------------------------------------------------|--------|
| 57. Leo Chee Boo                                      | 387 80 |
| 58. Bah Ah Wong                                       | 129 50 |
| 59. Leo Wing Sung                                     | 758 80 |
| 60. Leo Duck Yun (wounded)                            | 82 00  |
| 61. Leo Sun Oy                                        | 384 10 |
| 62. Leo Sun Tu                                        | 168 75 |
| 63. Leo Chong Kwun                                    | 114 20 |
| 64. Leo Bong Duck                                     | 227 70 |
| 65. Low Kwong Ming                                    | 160 25 |
| 66. Low Chay Heong                                    | 123 00 |
| 67. Property owned in common by persons of Camp No. 7 | 258 20 |

Total ..... 2,794 30

## CAMP No. 8.

|                                                       |        |
|-------------------------------------------------------|--------|
| 68. Leo Jun Kwong                                     | 207 25 |
| 69. Leo Kwong Ho                                      | 244 25 |
| 70. Leo Tsun Sung                                     | 193 45 |
| 71. Leo Hin Sow                                       | 144 20 |
| 72. Leo Liang Ning                                    | 112 50 |
| 73. Leo Kwong Kun                                     | 265 50 |
| 74. Kwong Kin                                         | 572 70 |
| 75. Property owned in common by persons of Camp No. 8 | 272 10 |

Total ..... 2,011 95

## CAMP No. 9.

|                                                       |        |
|-------------------------------------------------------|--------|
| 76. Leo Kwong Heung                                   | 241 50 |
| 77. Leo Kwong Chow                                    | 94 00  |
| 78. Leo Wah Choy                                      | 343 75 |
| 79. Leo Choy Shui                                     | 64 00  |
| 80. Leo Sih Hin                                       | 289 50 |
| 81. Leo Tse Nung                                      | 90 50  |
| 82. Leo Kwong Yee                                     | 120 00 |
| 83. Leo Joke Yow                                      | 104 70 |
| 84. Leo Ah But                                        | 377 55 |
| 85. Leo Tung Sing                                     | 386 00 |
| 86. Choo Hon Dye                                      | 285 25 |
| 87. Property owned in common by persons of Camp No. 9 | 195 70 |

Total ..... 2,594 85

## CAMP No. 10.

Estimated loss

|                                                        |         |
|--------------------------------------------------------|---------|
| 88. Lee Fow                                            | \$59 25 |
| 89. Chang Hoh Ching                                    | 61 25   |
| 90. Lee Wah Yun                                        | 44 25   |
| 91. Lee Ah Sin                                         | 39 00   |
| 92. Jang Kin Tsung                                     | 74 50   |
| 93. Lee Yu                                             | 62 30   |
| 94. Lee Bah Nii                                        | 53 50   |
| 95. Jang Lan Yoke                                      | 74 50   |
| 96. Property owned in common by persons of Camp No. 10 | 199 80  |

Total ..... 668 35

## CAMP No. 11.

|                                                         |        |
|---------------------------------------------------------|--------|
| 97. Leo Wing Yee                                        | 177 70 |
| 98. Leo Ing Mow                                         | 93 00  |
| 99. Leo Wing Siang                                      | 67 10  |
| 100. Leo Sun Gok                                        | 144 91 |
| 101. Leo Yu Choy                                        | 117 90 |
| 102. Leo Chung Sun                                      | 115 45 |
| 103. Leo Wing Kiong                                     | 114 80 |
| 104. Leo Ing Ngok                                       | 86 00  |
| 105. Leo Tun Tse                                        | 236 20 |
| 106. Chun Hook                                          | 305 50 |
| 107. Leo Goon Nii                                       | 236 20 |
| 108. Property owned in common by persons of Camp No. 11 | 174 80 |

Total ..... 1,869 56

## CAMP No. 12.

|                                                         |        |
|---------------------------------------------------------|--------|
| 109. Chang Chung Lien                                   | 95 00  |
| 110. Chang Kway Tse                                     | 109 75 |
| 111. Chang Bing Nging                                   | 67 50  |
| 112. Chun Hoon Wah                                      | 244 90 |
| 113. Chun Sum                                           | 190 60 |
| 114. Chun Gok Ying                                      | 80 65  |
| 115. Chun Ping On                                       | 51 30  |
| 116. Lum Yeen Kwong                                     | 48 00  |
| 117. Low Hok See                                        | 131 50 |
| 118. Chang Bing Tse                                     | 131 50 |
| 119. Chang Pahn Kway                                    | 67 75  |
| 120. Property owned in common by persons of Camp No. 12 | 175 00 |

Total ..... 1,393 45

## CAMP No. 13.

|                                                         |        |
|---------------------------------------------------------|--------|
| 121. Wong Chung Young                                   | 145 00 |
| 122. Leo Jik Hing                                       | 164 00 |
| 123. Chung Yung Yik                                     | 135 75 |
| 124. Hor Ah Chi                                         | 117 95 |
| 125. Wong Chiu Jan                                      | 238 50 |
| 126. Chun Sing Yik                                      | 221 10 |
| 127. Tung Cheong Wah                                    | 90 25  |
| 128. Chun Teen Wah                                      | 94 35  |
| 129. Property owned in common by persons of Camp No. 13 | 208 15 |

Total ..... 1,415 05

## CAMP No. 14.

|                             | Estimated loss. |
|-----------------------------|-----------------|
| 130. Wong Hoo Yen .....     | \$157 00        |
| 131. Wong Chip .....        | 85 40           |
| 132. Wong On .....          | 69 00           |
| 133. Wong Hing .....        | 87 40           |
| 134. Wong King Kwun .....   | 245 20          |
| 135. Wong Cheong Duck ..... | 111 50          |
| 136. Won Mun On .....       | 127 50          |
| 137. Wong Ho .....          | 96 80           |
| 138. Leo Sit Kwong .....    | 117 60          |
| 139. Chun Ah Yong .....     | 88 00           |
| 140. Chun Sung Leong .....  | 172 50          |
| 141. Leo Lung Kin .....     | 465 85          |
| 142. Chung Lin Poon .....   | 222 95          |
| 143. Wong Yip Tsun .....    | 987 75          |
| 144. Wong Ah Yee .....      | 123 25          |
| 145. Lor Chay Tsung .....   | 61 50           |
| <b>Total .....</b>          | <b>3,221 20</b> |

## CAMP No. 15.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 146. Leo Bah Ho .....                                         | 75 85           |
| 147. Leo Seh Kwong .....                                      | 268 45          |
| 148. Leo Seh Tsun .....                                       | 123 75          |
| 149. Leo Chee Nii .....                                       | 106 50          |
| 150. Leo Se Kwong .....                                       | 257 50          |
| 151. Leon Hoon Duck .....                                     | 217 00          |
| 152. Property owned in common by persons of Camp No. 15 ..... | 119 40          |
| <b>Total .....</b>                                            | <b>1,168 45</b> |

## CAMP No. 16.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 153. Hung Sam Ngok .....                                      | 105 00          |
| 154. Leo Seh Chun .....                                       | 266 50          |
| 155. Leo Seh Lum .....                                        | 266 85          |
| 156. Leo Kwun Kwong .....                                     | 97 00           |
| 157. Leo Seh Sow .....                                        | 59 50           |
| 158. Leo Wai Nii .....                                        | 110 00          |
| 159. Leo Chiu Fong .....                                      | 130 00          |
| 160. Loui Ah Sun .....                                        | 80 75           |
| 161. Leo Ah Yin .....                                         | 118 85          |
| 162. Leo Seh Yik .....                                        | 326 80          |
| 163. Leo Sam Choy .....                                       | 122 95          |
| 164. Leo Seh Chow .....                                       | 70 75           |
| 165. Leo Wing Choy .....                                      | 382 15          |
| 166. Leo Yum Yong .....                                       | 121 75          |
| 167. Leo Jew Foo (killed) .....                               | 60 00           |
| 168. Property owned in common by persons of Camp No. 16 ..... | 365 30          |
| <b>Total .....</b>                                            | <b>2,693 15</b> |

## CAMP No. 17.

|                         |        |
|-------------------------|--------|
| 169. Leo Min Nii .....  | 36 00  |
| 170. Leo Boo Nii .....  | 61 00  |
| 171. Leo Yin Choy ..... | 106 00 |
| 172. Leo Loy Hing ..... | 72 00  |
| 173. Leo Ah Ing .....   | 32 25  |
| 174. Leo Joo Yow .....  | 16 75  |

## CAMP No. 17—Continued.

|                                                               | Estimated loss. |
|---------------------------------------------------------------|-----------------|
| 175. Chun Ah Ngok .....                                       | \$57 50         |
| 176. Leo Joo Siu .....                                        | 307 00          |
| 177. Leo Jew Hing .....                                       | 187 00          |
| 178. Leo Lung Hing .....                                      | 59 00           |
| 179. Leo Wah Sin .....                                        | 127 00          |
| 180. Leo Loy Cheong .....                                     | 63 00           |
| 181. Sia Bun Ning (killed) .....                              | 410 00          |
| 182. Property owned in common by persons of Camp No. 17 ..... | 393 30          |
| <b>Total .....</b>                                            | <b>1,727 80</b> |

## CAMP No. 18.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 183. Leo Buck Tsun .....                                      | 190 50          |
| 184. Leo Go .....                                             | 235 25          |
| 185. Leo Wing Chow .....                                      | 63 00           |
| 186. Leo Yew Sung .....                                       | 115 50          |
| 187. Leo Lung Tok .....                                       | 224 75          |
| 188. Leo Yim Ming .....                                       | 83 25           |
| 189. Leo Lung Ming .....                                      | 90 90           |
| 190. Chun Loy Wor .....                                       | 66 50           |
| 191. Leo Nii On .....                                         | 113 00          |
| 192. Leo Tsun Lung .....                                      | 139 50          |
| 193. Leo Bong Nin .....                                       | 33 65           |
| 194. Lor Joo Kway .....                                       | 59 70           |
| 195. Property owned in common by persons of Camp No. 18 ..... | 263 90          |
| <b>Total .....</b>                                            | <b>1,679 40</b> |

## CAMP No. 19.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 196. Hsu Cheong Yow .....                                     | 60 50           |
| 197. Hsu Seh Bing .....                                       | 51 00           |
| 198. Hsu Cheong Yieh .....                                    | 41 25           |
| 199. Hsu Jay Yoke .....                                       | 131 45          |
| 200. Ng Ah E .....                                            | 52 25           |
| 201. Hsu Jay Heong .....                                      | 90 25           |
| 202. Asu Jay Cow .....                                        | 48 25           |
| 203. Hsu Ah Hoo .....                                         | 60 75           |
| 204. Chan Ah Hop .....                                        | 44 00           |
| 205. Hsu Sing Nii .....                                       | 73 00           |
| 206. Hsu An Mow .....                                         | 45 50           |
| 207. Hsu Cheong Hook .....                                    | 331 10          |
| 208. Hsu Siang Wood .....                                     | 48 00           |
| 209. Hsu Cheong Way .....                                     | 50 00           |
| 210. Property owned in common by persons of Camp No. 19 ..... | 253 25          |
| <b>Total .....</b>                                            | <b>1,380 55</b> |

## CAMP No. 20.

|                            |        |
|----------------------------|--------|
| 211. Wong Ing Yin .....    | 50 25  |
| 212. Chun Lin Duck .....   | 177 60 |
| 213. Moy Hung Marn .....   | 108 75 |
| 214. Leo Sing Cheong ..... | 189 00 |
| 215. Chun Loy Hook .....   | 113 50 |
| 216. Chun Leong Chii ..... | 106 30 |
| 217. Chun See Jan .....    | 68 25  |

## CAMP No. 20—Continued.

|                                                                       | Estimated loss. |
|-----------------------------------------------------------------------|-----------------|
| 218. Chun Yin E .....                                                 | \$59 50         |
| 219. Lee King Nin .....                                               | 46 25           |
| 220. Ngok Nam Cheong .....                                            | 48 50           |
| 221. Hor Ah Yim .....                                                 | 64 00           |
| 222. Property owned in com-<br>mon by persons of Camp<br>No. 20 ..... | 338 25          |
| <b>Total .....</b>                                                    | <b>1,369 65</b> |

## CAMP No. 21.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| 223. Woo Choy Koon .....                                              | 76 25           |
| 224. Hsu Ah Kin .....                                                 | 83 20           |
| 225. Hsu Yak Kok .....                                                | 54 30           |
| 226. Hsu Say Kong .....                                               | 188 75          |
| 227. Hsu Bing Hoon .....                                              | 74 30           |
| 228. Hsu Yee Yet .....                                                | 161 25          |
| 229. Hsu Ah Tse .....                                                 | 54 00           |
| 230. Low Tsung .....                                                  | 78 45           |
| 231. Mac Kow .....                                                    | 100 55          |
| 232. Hsu Jay Lung .....                                               | 51 75           |
| 233. Leo Ing Lee .....                                                | 136 00          |
| 234. Tom Bee Ling .....                                               | 91 60           |
| 235. Leo Sing Hook .....                                              | 208 75          |
| 236. Property owned in com-<br>mon by persons of Camp<br>No. 21 ..... | 228 25          |
| <b>Total .....</b>                                                    | <b>1,527 40</b> |

## CAMP No. 22.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| 237. Tom Ah Hoon .....                                                | 58 00           |
| 238. Chun Sing Wah .....                                              | 206 50          |
| 239. Lor Kuay Hin .....                                               | 121 45          |
| 240. Lor Chay Hing .....                                              | 61 75           |
| 241. Lor Chay Chii .....                                              | 109 45          |
| 242. Lor Chung Lum .....                                              | 83 50           |
| 243. Chan Sin Lung .....                                              | 93 50           |
| 244. Lor Chay Shui .....                                              | 70 45           |
| 245. Lor Hin Mook .....                                               | 88 25           |
| 246. Lor Tsii Lun .....                                               | 103 25          |
| 247. Lor Hin .....                                                    | 63 50           |
| 248. Lor Kuay Yun .....                                               | 89 00           |
| 249. Won Hook Yan .....                                               | 90 40           |
| 250. Lor Goon Hoo .....                                               | 117 05          |
| 251. Lor Bah Tse .....                                                | 146 30          |
| 252. Lor Loy .....                                                    | 74 70           |
| 253. Tom Sam Chay .....                                               | 95 90           |
| 254. Lor Won Kay .....                                                | 89 45           |
| 255. Property owned in com-<br>mon by persons of Camp<br>No. 22 ..... | 131 10          |
| <b>Total .....</b>                                                    | <b>1,893 50</b> |

## CAMP No. 23.

|                           |       |
|---------------------------|-------|
| 256. Lor Ngau Jay .....   | 46 50 |
| 257. Ngan Chung Gum ..... | 44 55 |
| 258. Leo Yun Choy .....   | 83 85 |
| 259. Leo Tse Yew .....    | 51 75 |
| 260. Leo Gum Kwong .....  | 88 95 |

## CAMP No. 23—Continued.

|                                                                       | Estimated loss. |
|-----------------------------------------------------------------------|-----------------|
| 261. Lor Lun Tse .....                                                | \$55 25         |
| 262. Leo Sun Jim .....                                                | 360 50          |
| 263. Leo Sun Hung .....                                               | 79 50           |
| 264. Yip Ah Marn (killed) .....                                       | 270 00          |
| 265. Property owned in com-<br>mon by persons of Camp<br>No. 23 ..... | 256 10          |
| <b>Total .....</b>                                                    | <b>1,336 95</b> |

## CAMP No. 24.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| 266. Lee Ah Hoon .....                                                | 31 25           |
| 267. Lee Sun Yow .....                                                | 83 65           |
| 268. Loc Yee Lunn .....                                               | 62 50           |
| 269. Lee Lay Kii .....                                                | 67 70           |
| 270. Yii See Yeu (killed) .....                                       | 224 70          |
| 271. Lee Sing Yip (wounded) .....                                     | 127 25          |
| 272. Ng Ngii Sing .....                                               | 55 50           |
| 273. Lee Ceong Sing .....                                             | 76 45           |
| 274. Lee Pah Choy .....                                               | 48 75           |
| 275. Lee Sing Yik .....                                               | 61 25           |
| 276. Wong Jan Hin .....                                               | 45 00           |
| 277. Tom Cow Tsun .....                                               | 77 75           |
| 278. Lee Hung Sing .....                                              | 77 75           |
| 279. Ngay Yow Yang .....                                              | 104 65          |
| 280. Lee Sing Tsun .....                                              | 77 50           |
| 281. Property owned in com-<br>mon by persons of Camp<br>No. 24 ..... | 459 85          |
| <b>Total .....</b>                                                    | <b>1,681 50</b> |

## CAMP No. 282.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| 282. Ng Gee Hok .....                                                 | 147 75          |
| 283. Wong Lin Sing .....                                              | 85 65           |
| 284. Tsung Shii Chew .....                                            | 46 40           |
| 285. Wong Nam .....                                                   | 109 30          |
| 286. Leo Hung Chat .....                                              | 100 00          |
| 287. Ng Siang Yee .....                                               | 84 35           |
| 288. Ng Dye Hook .....                                                | 99 50           |
| 289. Ng Sam Hing .....                                                | 69 85           |
| 290. Wong Hook Sow .....                                              | 95 85           |
| 291. Property owned in com-<br>mon by persons of Camp<br>No. 25 ..... | 252 45          |
| <b>Total .....</b>                                                    | <b>1,091 10</b> |

## CAMP No. 26.

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| 292. Lee Chay Hien .....                                              | 30 60           |
| 293. Lee Teen Sik .....                                               | 89 95           |
| 294. Pang Gar Hoo .....                                               | 76 50           |
| 295. Lee Bing Yen .....                                               | 74 50           |
| 296. Lee Ah Hor .....                                                 | 81 50           |
| 297. Lee Ah Goon .....                                                | 52 25           |
| 298. Lee Gut Hing .....                                               | 72 00           |
| 299. Lee Tsun Inn .....                                               | 84 50           |
| 300. Yii On .....                                                     | 26 00           |
| 301. Property owned in com-<br>mon by persons of Camp<br>No. 26 ..... | 447 25          |
| <b>Total .....</b>                                                    | <b>1,034 85</b> |



## CAMP No. 27.

|                                                                    | Estimated loss. |
|--------------------------------------------------------------------|-----------------|
| 302. Leo Lee Hop-----                                              | \$50 25         |
| 303. Leo Liang Kwong-----                                          | 85 25           |
| 304. Leo Ah Boh-----                                               | 66 25           |
| 305. Leo Mun Sing-----                                             | 250 00          |
| 306. Leo Hung Yim-----                                             | 141 00          |
| 307. Leo Kwong Kin-----                                            | 199 50          |
| 308. Leo Lung Bah-----                                             | 196 50          |
| 309. Leo Hoo Kwong-----                                            | 115 00          |
| 310. Leo Kee Tsun-----                                             | 123 25          |
| 311. Leo Tseng Kwong-----                                          | 174 00          |
| 312. Leo Fu Sing-----                                              | 106 00          |
| 313. Leo Lung Jan-----                                             | 236 00          |
| 314. Leo Hin Niin-----                                             | 96 00           |
| 315. Leo Kee Bong-----                                             | 58 50           |
| 316. Leo Ah Tse-----                                               | 46 00           |
| 317. Choy Kih Tong-----                                            | 45 25           |
| 318. Leo Lung Bee-----                                             | 31 00           |
| 319. Leo Sin Hin-----                                              | 31 00           |
| 320. Leo Sun Juk-----                                              | 47 00           |
| 321. Leo Kwong Chart-----                                          | 72 50           |
| 322. Leo Hop Sun (wounded)-----                                    | 150 00          |
| 323. Property owned in common<br>by persons of Camp<br>No. 27----- | 167 25          |
| Total-----                                                         | 2,489 50        |

## CAMP No. 28.

|                                                                    |        |
|--------------------------------------------------------------------|--------|
| 324. Tseng Bah Cheong-----                                         | 59 35  |
| 325. Liang Ah Ho-----                                              | 58 25  |
| 326. Chew Sung-----                                                | 34 50  |
| 327. Low Ah Way-----                                               | 75 50  |
| 328. Lie Ah Ing-----                                               | 48 85  |
| 329. Hoo Woor Sien-----                                            | 76 70  |
| 330. Hoo Ah Kun-----                                               | 105 80 |
| 331. Hoo Wor Jay-----                                              | 148 00 |
| 332. Hoo Ah Jing-----                                              | 101 00 |
| 333. Property owned in common<br>by persons of Camp No.<br>28----- | 254 90 |
| Total-----                                                         | 962 85 |

## CAMP No. 29.

|                                                                    |          |
|--------------------------------------------------------------------|----------|
| 334. Yang Chay Yeong-----                                          | 71 00    |
| 335. Ow Ah Cheong-----                                             | 135 50   |
| 336. Yang Pin Won-----                                             | 48 75    |
| 337. Choo Kin Hung-----                                            | 190 45   |
| 338. Ng Sing Nung-----                                             | 86 00    |
| 339. Ng Cheong Dye-----                                            | 56 50    |
| 340. Ng Seh Keong-----                                             | 40 25    |
| 341. Ng E. Hing-----                                               | 38 40    |
| 342. Chun Sing-----                                                | 44 00    |
| 343. Choo Tsun Mun-----                                            | 98 95    |
| 344. Choo Lin For-----                                             | 93 65    |
| 345. Property owned in common<br>by persons of Camp No.<br>29----- | 378 55   |
| Total-----                                                         | 1,282 00 |

## CAMP No. 30.

|                                                                    | Estimated loss. |
|--------------------------------------------------------------------|-----------------|
| 346. Lor Chung Hing-----                                           | \$110 00        |
| 347. Soo Yew-----                                                  | 62 50           |
| 348. Cho Ah Tsung-----                                             | 142 00          |
| 349. Yang Hoo-----                                                 | 134 10          |
| 350. Kom Say-----                                                  | 135 05          |
| 351. Lye Duck-----                                                 | 99 75           |
| 352. Chun Gun-----                                                 | 73 00           |
| 353. Lor Sun Bo-----                                               | 151 10          |
| 354. Lor Hin Ik-----                                               | 114 80          |
| 355. Sum Sing Hook-----                                            | 88 90           |
| 356. Lor Chay Inn-----                                             | 171 00          |
| 357. Lor Chay Bun-----                                             | 224 60          |
| 358. Lor Yew Chun-----                                             | 104 50          |
| 359. Lor See Duck (wounded)-----                                   | 95 00           |
| 360. Property owned in common<br>by persons of Camp No.<br>30----- | 163 90          |
| Total-----                                                         | 1,870 20        |

## CAMP No. 32.

|                                                                    |          |
|--------------------------------------------------------------------|----------|
| 361. Tom Kung Cheong-----                                          | 80 00    |
| 362. Tom Pung Yew-----                                             | 50 00    |
| 363. Tom See Sum-----                                              | 116 00   |
| 364. Ng Hung Kwong-----                                            | 120 00   |
| 365. Tom Mun Gum-----                                              | 90 00    |
| 366. Tom Mun Niin-----                                             | 136 00   |
| 367. Tom Mun Poon-----                                             | 122 00   |
| 368. Yan Won Tsing-----                                            | 130 00   |
| 369. Property owned in common<br>by persons of Camp No.<br>32----- | 200 00   |
| Total-----                                                         | 1,044 00 |

## CAMP No. 33.

|                                                                    |          |
|--------------------------------------------------------------------|----------|
| 370. Loui Way Gook-----                                            | 133 20   |
| 371. Loui Ngee Tsun-----                                           | 151 00   |
| 372. Loui Way Yoke-----                                            | 123 25   |
| 373. Loui Ah Ing-----                                              | 75 00    |
| 374. Loui Hok Lim-----                                             | 76 75    |
| 375. Kwong Ah Hook-----                                            | 42 50    |
| 376. Loui Jan Hok-----                                             | 157 00   |
| 377. Lum Ah Nap-----                                               | 44 50    |
| 378. Ng Tse Go-----                                                | 58 50    |
| 379. Kwong Duck Poon-----                                          | 53 00    |
| 380. Loui Ah Sing-----                                             | 72 50    |
| 381. Property owned in common<br>by persons of Camp<br>No. 33----- | 229 80   |
| Total-----                                                         | 1,217 00 |

## CAMP No. 34.

|                          |        |
|--------------------------|--------|
| 382. Chun Ah Bo-----     | 85 00  |
| 383. Moy Ah Choy-----    | 104 00 |
| 384. Choo Tsow-----      | 825 00 |
| 385. Choo Kwong Tim----- | 113 00 |
| 386. Lum Lup Lin-----    | 50 75  |

## CAMP No. 34—Continued.

|                                    | Estimated loss. |
|------------------------------------|-----------------|
| 387. Lor Wor Hing .....            | \$107 45        |
| 388. Choo Hoon .....               | 53 75           |
| 389. Lor Poon Cheong .....         | 119 50          |
| 390. Tsung Gun Chung .....         | 117 30          |
| 391. Lor Wah Et .....              | 55 80           |
| 392. Leo Chee Day .....            | 94 15           |
| 393. Lor Hong Hoon (wounded) ..... | 67 50           |
| 394. Choo Yai Duck .....           | 212 20          |
| 395. Wong Chung .....              | 109 45          |
| 396. Choo Nung Shui .....          | 133 20          |
| 397. Choo Kin Hung .....           | 41 25           |
| 398. Lee Cheong Lin .....          | 48 00           |
| 399. Lum Wing .....                | 33 50           |
| 400. Way Ing .....                 | 139 85          |
| 401. Tom Hing .....                | 145 45          |
| 402. Chun Sang Wah .....           | 157 50          |
| <b>Total</b> .....                 | <b>2,814 40</b> |

## CAMP No. 35.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 403. Hsu Chee Pie .....                                       | 160 75          |
| 404. Hsu Chee Moon .....                                      | 152 00          |
| 405. Hsu Ah Kum .....                                         | 99 75           |
| 406. Hsu Sum Jay .....                                        | 103 20          |
| 407. Hsu Ah Tsun .....                                        | 52 00           |
| 408. Hsu Ah Sut .....                                         | 199 75          |
| 409. Low Hok Jan .....                                        | 69 50           |
| 410. Hsu Seh Poo .....                                        | 107 75          |
| 411. Tung Lung .....                                          | 105 20          |
| 412. Low Chow .....                                           | 74 25           |
| 413. Property owned in common by persons in Camp No. 35 ..... | 295 10          |
| <b>Total</b> .....                                            | <b>1,419 45</b> |

## CAMP No. 36.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 414. Mac Hoy Kum .....                                        | 157 25          |
| 415. Gok Ah Mong .....                                        | 54 75           |
| 416. Lee Won Inn .....                                        | 135 55          |
| 417. Ng Ah Sik .....                                          | 82 15           |
| 418. Le Ah Chii .....                                         | 98 75           |
| 419. Le Ah Seang .....                                        | 55 75           |
| 420. Wong Ah Chow .....                                       | 80 25           |
| 421. Kwong See Dick .....                                     | 63 25           |
| 422. Chun Quan Sing (killed) .....                            | 135 00          |
| 423. Property owned in common by persons of Camp No. 36 ..... | 230 64          |
| <b>Total</b> .....                                            | <b>1,093 34</b> |

## CAMP No. 40.

|                          |        |
|--------------------------|--------|
| 424. Lee Yow Sung .....  | 177 80 |
| 425. Lee Seh Chung ..... | 155 50 |
| 426. Lee Mun Poy .....   | 133 25 |
| 427. Lee Yick Sow .....  | 153 85 |
| 428. Lee Chay Nii .....  | 127 50 |
| 429. Sun Ng Choy .....   | 151 80 |
| 430. Ip Nii Im .....     | 86 50  |
| 431. Lee Say Fat .....   | 101 25 |

## CAMP No. 40—Continued.

|                                                               | Estimated loss. |
|---------------------------------------------------------------|-----------------|
| 432. Lee Lin Hook .....                                       | \$138 35        |
| 433. Lee Hoon Yin .....                                       | 141 20          |
| 434. Lee Bo Hoo .....                                         | 109 75          |
| 435. Lum Chee Ngok .....                                      | 84 80           |
| 436. Lee Tseng Yin .....                                      | 137 00          |
| 437. Property owned in common by persons of Camp No. 40 ..... | 380 25          |
| <b>Total</b> .....                                            | <b>2,178 80</b> |

## CAMP No. 41.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 438. Lee Hung Yow .....                                       | 149 00          |
| 439. Lee Nging .....                                          | 213 75          |
| 440. Won Yin Sung (wounded) .....                             | 174 50          |
| 441. Won Tun Kwong .....                                      | 112 10          |
| 442. Won Hok Sum .....                                        | 519 70          |
| 443. Leo Bing Lung .....                                      | 187 40          |
| 444. Leo Sun Boo .....                                        | 137 00          |
| 445. Ching Loy Hin .....                                      | 135 50          |
| 446. Leo Yim Kwong .....                                      | 353 50          |
| 447. Property owned of common by persons of Camp No. 41 ..... | 207 45          |
| <b>Total</b> .....                                            | <b>2,189 90</b> |

## CAMP No. 43.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 448. Lee Kung Won .....                                       | 67 00           |
| 449. Leo Mun Wing .....                                       | 71 10           |
| 450. Leo Lung Cheong .....                                    | 259 75          |
| 451. Leo Chay Wah .....                                       | 98 60           |
| 452. Leo Seh Ho .....                                         | 53 50           |
| 453. Cho Cheong Tsung .....                                   | 75 80           |
| 454. Leo Kow Boot (killed) .....                              | 764 00          |
| 455. Property owned in common by persons of Camp No. 43 ..... | 244 70          |
| <b>Total</b> .....                                            | <b>1,634 45</b> |

## CAMP No. 47.

|                                                               |                 |
|---------------------------------------------------------------|-----------------|
| 456. Lor Hing See .....                                       | \$63 50         |
| 457. Wong Chay Heong .....                                    | 63 25           |
| 458. Lee Wor Yin .....                                        | 108 00          |
| 459. Kwan Kok Gin .....                                       | 162 75          |
| 460. Chang Chay Ngok .....                                    | 49 00           |
| 461. Chan Gung Yow .....                                      | 100 75          |
| 462. Wong Ah Gow .....                                        | 77 25           |
| 463. Fong Sung Duck .....                                     | 102 75          |
| 464. Fong Sow Siang .....                                     | 61 00           |
| 465. Property owned in common by persons of Camp No. 47 ..... | 318 50          |
| <b>Total</b> .....                                            | <b>1,106 75</b> |

## CAMP No. 52.

|                         |       |
|-------------------------|-------|
| 466. Choy Bew Yik ..... | 88 00 |
| 467. Sit Yii Yin .....  | 24 00 |

## CAMP No. 52—Continued.

|                                                                      | Estimated loss. |
|----------------------------------------------------------------------|-----------------|
| 468. Choy Ing Yii-----                                               | \$26 00         |
| 469. Loui Kwun-----                                                  | 26 00           |
| 470. Loui Way Git-----                                               | 72 50           |
| 471. Hsu Choc Yii-----                                               | 66 75           |
| 472. Chung Yin Yun-----                                              | 45 55           |
| 473. Chan Ah Sow-----                                                | 81 75           |
| 474. Loui Ah Hok-----                                                | 35 00           |
| 475. Choy Hong Yik-----                                              | 44 75           |
| 476. Choy Poy Sing-----                                              | 61 75           |
| 477. Choy Yang Ming-----                                             | 96 75           |
| 478. Choy Ing Sum-----                                               | 123 50          |
| 479. Hsu Ah Tsing (killed)-----                                      | 450 00          |
| 480. Property owned in com-<br>mon by persons of Camp<br>No. 52----- | 354 45          |
| Total-----                                                           | 1, 596 75       |

## CAMP No. 54.

|                                                                      |           |
|----------------------------------------------------------------------|-----------|
| 481. Chun Ah Sow-----                                                | 133 90    |
| 482. Low Jan Kwong-----                                              | 73 00     |
| 483. Lor Ah Wor-----                                                 | 40 80     |
| 484. Chan Ah Sing-----                                               | 60 75     |
| 485. Chang Ah Bing-----                                              | 162 75    |
| 486. Choo Bah Dat-----                                               | 141 25    |
| 487. Choo Yip Hway-----                                              | 106 00    |
| 488. Choo Bah Quot (killed)-----                                     | 380 00    |
| 489. Property owned in com-<br>mon by persons of Camp<br>No. 54----- | 258 30    |
| Total-----                                                           | 1, 356 75 |

## CAMP No. 56.

|                                                                      | Estimated loss. |
|----------------------------------------------------------------------|-----------------|
| 490. Choo Hook Chew-----                                             | \$100 40        |
| 491. Choo To Sing-----                                               | 70 60           |
| 492. Won Tsun Ik-----                                                | 79 00           |
| 493. Choo Buck Kwong-----                                            | 131 00          |
| 494. Choo Shii Gun-----                                              | 117 30          |
| 495. Choo Kwong Hin-----                                             | 124 70          |
| 496. Choo Kung Sun-----                                              | 133 75          |
| 497. Choo Yong-----                                                  | 62 50           |
| 498. Property owned in com-<br>mon by persons of Camp<br>No. 56----- | 247 25          |
| Total-----                                                           | 1, 066 50       |

## CAMP No. 58.

|                                                                      |            |
|----------------------------------------------------------------------|------------|
| 499. Leo Lung Ing-----                                               | 264 65     |
| 500. Chew Nung-----                                                  | 84 75      |
| 501. Lee Gut Cheong-----                                             | 402 65     |
| 502. Leo Ah Sam-----                                                 | 109 70     |
| 503. Yuen Chun Sung (killed)-----                                    | 150 00     |
| 504. Leo Lung Cho-----                                               | 125 30     |
| 505. Leo Chung Wor-----                                              | 114 75     |
| 506. Leo Sun Gok-----                                                | 114 25     |
| 507. Leo Kin Lung-----                                               | 147 30     |
| 508. Property owned in com-<br>mon by persons in Camp<br>No. 58----- | 259 15     |
| Total-----                                                           | 1, 772 50  |
| Grand total-----                                                     | 69, 380 55 |

*Estimate of losses sustained by Chinese residents in their respective huts at Rock Springs  
Wyoming Territory, September 2, 1885.*

|                                                       | Estimated loss. |                                                      | Estimated loss. |
|-------------------------------------------------------|-----------------|------------------------------------------------------|-----------------|
| 509. Loui Yee Tsun-----                               | \$133 50        | 534. Loui Seh Bong-----                              | \$60 00         |
| 510. Leo Chung Teen-----                              | 66 90           | 535. Ngan Chee-----                                  | 139 65          |
| 511. Choo Kaw Yii-----                                | 50 00           | 536. Leo Kwong Hoon-----                             | 197 75          |
| 512. Tom Jik-----                                     | 139 35          | 537. Lor Say Ho-----                                 | 94 00           |
| 513. Leo Seh Hoo-----                                 | 448 50          | 538. Low Chay Won-----                               | 666 50          |
| 514. Hsu Cheong Yet-----                              | 67 40           | 539. Low Sow Ping-----                               | 225 75          |
| 515. Hsu Kin-----                                     | 35 70           | 540. Leo Lung Teen-----                              | 80 00           |
| 516. Tom Kun Tse-----                                 | 277 75          | 541. Leo Lung Kway-----                              | 146 00          |
| 517. Leo Shui He-----                                 | 182 30          | 542. Leo Hin Nung-----                               | 183 50          |
| 518. Loui Hok Lim-----                                | 77 00           | 543. Leo Ah Chay-----                                | 64 25           |
| 519. Leo Kwong Lun-----                               | 234 45          | 544. Leo Chay Geen-----                              | 35 50           |
| 520. Leo Lung Yun-----                                | 348 00          | 545. Leo Kwong Yong-----                             | 2, 122 10       |
| 521. Leo Oy Yii-----                                  | 311 00          | 546. Leo Tim Tsung-----                              | 39 00           |
| 522. Leo Gut Yii-----                                 | 369 40          | 547. Leo Sing Gut-----                               | 144 30          |
| 523. Leo Wong Kee-----                                | 370 00          | 548. Leo Chun Kwong-----                             | 563 10          |
| 524. Leo Kwon Yun-----                                | 537 00          | 549. Leo Wing Sung-----                              | 447 70          |
| 525. Yong Yun-----                                    | 243 00          | 550. Leo Tse-----                                    | 476 85          |
| 526. Chum Sing Ip-----                                | 154 50          | 551. Leo Nip Sun-----                                | 2, 325 15       |
| 527. Leo Lung Kwong and Leo<br>Wah Kum, partners----- | 1, 874 70       | 552. Leo Buck Way-----                               | 509 05          |
| 528. Leo Hook Quan-----                               | 1, 891 10       | 553. Leo Bing Gee-----                               | 448 50          |
| 529. Hsu Lin Sam-----                                 | 89 00           | 554. Leo Lung Ngan-----                              | 515 10          |
| 530. Ng Kwun Sing-----                                | 68 00           | 555. Chow Yow Yen-----                               | 336 25          |
| 531. Tong Ah Cheong-----                              | 191 80          | 556. Leo Kin Lung and Chow<br>Yow Yen, partners----- | 1, 349 70       |
| 532. Leo Sun Yip-----                                 | 171 25          | 557. Wong Lin Gok-----                               | 149 85          |
| 533. Leo Kwong Teen-----                              | 330 45          | 558. Leo Way Sun-----                                | 1, 048 50       |



| Estimated loss.       |           | Estimated loss.       |          |
|-----------------------|-----------|-----------------------|----------|
| 559. Leo Sik Lung     | \$616 50  | 625. Leo Seh Kin      | \$110 00 |
| 560. Lum Dii Tsing    | 701 00    | 626. Leo Seh Dat      | 43 75    |
| 561. Leo Tsock Yen    | 989 50    | 627. Leo Seh Tim      | 123 75   |
| 562. Leo Yew Lung     | 1, 821 10 | 628. Choo Ngok Yun    | 107 70   |
| 563. Leo Yii Sing     | 161 75    | 629. Chung Hook Tse   | 143 35   |
| 564. Leo Lung King    | 2, 934 10 | 630. Low Ting But     | 152 75   |
| 565. Liang Sing Hee   | 1, 344 25 | 631. Low Yung Chee    | 60 75    |
| 566. Leo Hin Yong     | 1, 319 25 | 632. Low Yip          | 43 00    |
| 567. Chun Chin Cheong | 62 50     | 633. Leo Sing Yong    | 870 00   |
| 568. Leo Yik Tse      | 1, 204 85 | 634. Tong He          | 105 50   |
| 569. Low Chung        | 81 50     | 635. Leo Chung Nii    | 64 00    |
| 570. Leo Yun Kwong    | 414 75    | 636. Leo Kwan Cheong  | 307 80   |
| 571. Leo Wing Sun     | 137 00    | 637. Leo Kwong Sye    | 108 70   |
| 572. Low Lung         | 134 10    | 638. Leo Sun Hon      | 175 10   |
| 573. Leo Me Kwong     | 73 80     | 639. Tong Chee Heong  | 86 25    |
| 574. Leo Chay Ng      | 428 70    | 640. Lum Wor          | 138 25   |
| 575. Leo Hook Ko      | 138 50    | 641. Tong Ding Poon   | 147 40   |
| 576. Hsu Zay Choo     | 46 00     | 642. Choo Ah Wor      | 56 50    |
| 577. Leo Wing You     | 575 50    | 643. Leo Ah Sow       | 877 25   |
| 578. Leo Kew Lung     | 170 44    | 644. Tong Ding Yew    | 120 60   |
| 579. Leo Yet Sun      | 396 00    | 645. Leo Kung Ho      | 169 00   |
| 580. Leo Yit Lung     | 90 25     | 646. Tong Ah Lum      | 101 50   |
| 581. Leo Kwong Nom    | 177 20    | 647. Liang Sing       | 68 00    |
| 582. Leo Ting Kwong   | 355 50    | 648. Ng Lin Tin       | 142 60   |
| 583. Leo Lung Gut     | 55 50     | 649. Tong Seh Kum     | 72 45    |
| 584. Lum Wing Gut     | 108 50    | 650. Mac Wing Yum     | 183 00   |
| 585. Low Ng           | 35 00     | 651. Leo Kwong Sik    | 179 20   |
| 586. Leo Chee Bong    | 181 50    | 652. Tong He Ngok     | 75 00    |
| 587. Leo Sun Soy      | 343 60    | 653. Loui Ho          | 80 80    |
| 588. Lee Sing         | 66 50     | 654. Leo Yii Lup      | 62 15    |
| 589. Leo Sing Gee     | 91 25     | 655. Choo Ngar Cheong | 250 95   |
| 590. Leo Sung Sai     | 60 35     | 656. Tong Kee Yong    | 112 50   |
| 591. Leo Cong Kwong   | 154 50    | 657. Lee Sin Ycong    | 279 00   |
| 592. Leo Wing Joke    | 189 80    | 658. Leo Kwan Bo      | 265 50   |
| 593. Leo Wing Chang   | 313 00    | 659. Ng Ling Cheong   | 25 80    |
| 594. Leo Wing Chee    | 238 00    | 660. Choy Hoy Chee    | 86 75    |
| 595. Leo Wing Liang   | 428 50    | 661. Leo Sing Lung    | 128 55   |
| 596. Leo Kum Yen      | 172 00    | 662. Leo Wing Ngoon   | 86 00    |
| 597. Leo Bah Lum      | 296 00    | 663. Chan Lung Yik    | 80 00    |
| 598. Leo Kwong Ning   | 257 40    | 664. Leo Yun Tse      | 375 30   |
| 599. Leo Kwong Book   | 120 50    | 665. Ng Low Yow       | 161 00   |
| 600. Leo Quan Ding    | 69 50     | 666. Chun Tse Lin     | 91 50    |
| 601. Leo Quong Bo     | 148 00    | 667. Leo Ah Kii       | 209 45   |
| 602. Leo Jup Hok      | 93 75     | 668. Ng Tse Chang     | 145 60   |
| 603. Leo Kwong Sum    | 86 25     | 669. Leo Fong Wah     | 167 75   |
| 604. Leo Wing Kwong   | 38 75     | 670. Leo Kwong Kien   | 164 75   |
| 605. Soo Ah Jik       | 42 00     | 671. Leo Wah Siang    | 394 50   |
| 606. Lee Chew Nan     | 48 50     | 672. Chan Way         | 83 75    |
| 607. Leo Kwong Fat    | 970 50    | 673. Ngog Kin Sing    | 185 00   |
| 608. Loni Cheong Dye  | 29 00     | 674. Leo Sun Sing     | 96 00    |
| 609. Leo Nom Sow      | 117 25    | 675. Leo Hoy Ming     | 305 10   |
| 610. Kwong Yin Hin    | 36 50     | 676. Tong Kay Jock    | 11 25    |
| 611. Hsu Jay Chee     | 89 50     | 677. Leo Sun Lee      | 430 75   |
| 612. Hsu Ah Ing       | 51 25     | 678. Leo Hin Wing     | 300 00   |
| 613. Look Ah Tsung    | 233 50    | 679. Leo Chay Hoon    | 264 50   |
| 614. Mar Moy          | 164 85    | 680. Leo My           | 107 70   |
| 615. Low Wong Hok     | 176 05    | 681. Leo Mun Fat      | 79 15    |
| 616. Leo Chum See     | 208 25    | 682. Leo Mun Sing     | 59 85    |
| 617. Choo Chay Sing   | 257 75    | 683. Leo King Lung    | 308 75   |
| 618. Leo Yin On       | 47 50     | 684. Tom Won          | 71 50    |
| 619. Choo Ping Cheong | 116 40    | 685. Leo Teen Siang   | 367 25   |
| 620. Tung Seh Sun     | 251 50    | 686. Chun Hoy Gock    | 144 75   |
| 621. Leo Fan Lee      | 187 45    | 687. Low Chee Sing    | 208 80   |
| 622. Leo Mun Gwin     | 145 75    | 688. Leo Kwong Ing    | 85 50    |
| 623. Leo Lung Jik     | 402 75    | 689. Leo Lit Kwong    | 144 40   |
| 624. Leo Ting Yew     | 117 35    | 690. Leo Tsun Lung    | 259 95   |

| Estimated loss.            |          | Estimated loss.               |            |
|----------------------------|----------|-------------------------------|------------|
| 691. Leo Lung Kwong        | \$64 00  | 732. Leo Sun Tsung (killed)   | \$1,140 00 |
| 692. Hung Ah Hin           | 134 00   | 733. Lor Hung Lung (killed)   | 210 00     |
| 693. Leo Hoo Sun           | 351 50   | 734. Leo Tim Kwong (killed)   | 113 00     |
| 694. Leo Tsun Kwong        | 209 25   | 735. Leo Lung Siang (killed)  | 550 00     |
| 695. Low Ah Wood           | 533 45   | 736. Ah Lee Hok (wounded)     | 93 65      |
| 696. Leo Joo Hing          | 123 50   | 737. Lee Hook Sing (wounded)  | 79 10      |
| 697. Leo Wing Moon         | 1,771 95 | 738. Leo Kung Kwong (wounded) | 72 25      |
| 698. Tom Sun               | 219 55   | 739. Leo Ah Go (wounded)      | 235 25     |
| 699. Ng Yow                | 168 50   | 740. Lor Sun Kit (wounded)    | 343 60     |
| 700. Tom See Cheong        | 92 95    | 741. Chow Choy                | 317 35     |
| 701. Leo Chang Lup         | 852 70   | 742. Yuen Sing Hoo            | 130 95     |
| 702. Leo Yet Sum           | 148 40   | 743. Chun Go                  | 112 15     |
| 703. Chun Lor Fong         | 79 75    | 744. Chow Hook                | 111 10     |
| 704. Chun Linn Hoo         | 154 95   | 745. Chun Yee Gow             | 315 10     |
| 705. Leo Fong Nim          | 162 50   | 746. Leo Lung Oy              | 294 75     |
| 706. Tom Hoy Yen           | 43 00    | 747. Yip Ah Mow               | 57 50      |
| 707. Yii Day On            | 95 30    | 748. Leo Wor Shui             | 180 55     |
| 708. Choo Yun Yee          | 67 00    | 749. Leo Seh Ying             | 80 35      |
| 709. Leo Yut Cheong        | 170 00   | 750. Leo Wing Ngoon           | 33 25      |
| 710. Leo Seh Jay           | 300 00   | 751. Leo Hoy Kee              | 30 50      |
| 711. Leo Kwun              | 3,317 50 | 752. Leo Lung Hoy             | 56 50      |
| 712. Leo Sow Kway          | 433 10   | 753. Chum Nom Gok             | 78 58      |
| 713. Wong Woon Ho (woman)  | 150 50   | 754. Leo Ah Hing              | 301 00     |
| 714. Leo Gok Kwong         | 394 50   | 755. Leo Kwong Oy             | 118 75     |
| 715. Leo Sing Lit          | 532 00   | 756. Leo Ow Kwong             | 230 85     |
| 716. Leo Yoke Kwong        | 732 50   | 757. Leo Lung Way             | 49 50      |
| 717. Leo Loy Kiang         | 246 70   | 758. Leo Yuk Kwong            | 212 50     |
| 718. Leo Kwong Cheong      | 217 25   | 759. Leo Wing Bing            | 43 95      |
| 719. Leo Hin Yin           | 114 50   | 760. Leo Tse Wing (killed)    | 472 00     |
| 720. Won Sum               | 346 10   | 761. Leo Chik Ming (killed)   | 800 00     |
| 721. Leo Kwong Wing        | 209 00   | 762. Liang Tsun Bong (killed) | 180 00     |
| 722. Yii Cheong            | 34 00    | 763. Hsu Ah Cheong (killed)   | 240 00     |
| 723. Leo Sun Hung          | 126 20   | 764. Hoo Ah Nii (killed)      | 400 00     |
| 724. Leo Hung Kum          | 534 80   |                               |            |
| 725. Leo Duck Sun          | 432 50   |                               |            |
| 726. Leo Tsing Yin         | 180 00   |                               |            |
| 727. Leo Ah Tsun (killed)  | 500 00   |                               |            |
| 728. Leo Dye Bah (killed)  | 670 00   |                               |            |
| 729. Leo Lung Hon (killed) | 770 00   |                               |            |
| 730. Leo Lung Hor (killed) | 580 00   |                               |            |
| 731. Leo Hoy Yat (killed)  | 240 00   |                               |            |

Residents in huts, total. 78,368 19  
Residents in camps, total. 69,380 55

Grand final total. 147,748 74

(Signed)

HUANG SIH CHUEN,  
Consul at New York.

[Inclosure 3 in note of November 30, 1885.]

*The Chinese indemnity claims.*

In 1858 a convention was agreed upon for the adjustment of the claims of American citizens against China. The claims are described by the United States minister, Mr. Reed, as of two kinds: first, those "dating as far back as 1847 and having no relation" to the war which for two years had been carried on by Great Britain and France against China; and, second, "those originating in the pending warfare," the latter embracing much the larger amount of the claims. In describing these, Mr. Reed, in a dispatch to the Secretary of State, says: "Those arising out of the British bombardment in October do not seem to me to be strong as against the Chinese, who were the party assailed and not the assailants; and I indulge in the hope that some remuneration may be made by the British authorities. The property burned in the factories constituted a more meritorious class as against the Chinese. That they had a perfect right by any means to dislodge a hostile force, and in doing so to destroy the buildings occupied, is very clear. It is equally so that they were not bound to abstain from this mode of annoyance because neutral property stored there might be endangered or destroyed; but if that property is destroyed in order to make defense effectual, the innocent sufferers must look somewhere." (S. Ex. Doc. 30, 36th Cong., 1st sess., p. 193.)

Mr. Cass, Secretary of State, instructed Mr. Reed to press the claim upon the Chinese Government for indemnification. The minister reports that "in the early part of the negotiations here the Chinese persevered in denying not only all responsibility on the part of the Imperial Government, but all power or inclination to control the local authorities at Canton." (Ib., p. 371.) But the English and French having dictated terms of peace, which included the recognition of their claims, Mr. Reed insisted that "if the claims for private pecuniary injury done to English or French be admitted to be binding on the Imperial Government, and not those of the United States, it will be a great wrong to those who have been friends of China." (Ib., p. 373.) Under these circumstances the convention was signed and \$735,258.97 were paid over by the Chinese Government to the American minister, upon the faith of his representation that injuries to that amount had been suffered by citizens of the United States. A proposition to place a Chinese on the Claims Commission was rejected (Ib., pp. 520-1), and no opportunity appears to have been afforded that Government to examine the evidence upon which the claims were based.

The subsequent proceedings are stated by the House Committee on Foreign Affairs to be as follows: "Under the provisions of an act of Congress two commissioners, citizens of the United States, were appointed to adjust the claims and award such sums as might be found to be justly due; their decisions to be final. The commissioners appointed were both at the time residents of China, and familiar with all the circumstances under which the claims arose. They met at Macao, in China, November 18, 1859, and concluded their labors on the 13th day of January, 1860. Upon examination all the claims were found to be more or less exaggerated, and some to be entirely groundless; while others were presented by persons not citizens of the United States. After paying all the claims to the apparent satisfaction of the claimants—no protest being filed in any case—with interest for five years at the rate of 12 per cent. per annum, there remained a surplus of more than one-third of the gross sum received from China." (House Report No. 970, 48th Cong., 1st sess.)

This surplus was transferred from China to the United States and invested by the Secretary of State in Government bonds. While in the hands of the Secretary, Congress and the Executive authorized the payment of \$154,299.64 to individuals whose claims had been rejected by the commission as invalid and without merit. The balance was finally returned to China, by virtue of the act of Congress of March 3, 1885.

#### THE CHARACTER OF THE CLAIMS.

The commission appointed to adjust the claims made a full report of their proceedings, including a list of awards and the evidence upon which they were made. (House Ex. Doc. No. 29, 40th Cong., 3d sess.) The following is a copy of the statement of claims allowed:



CLASS I.—Statement of claims allowed in full.

| No. | Name of claimant.                                    | Residence.    | Nature of claim.                                                                                               | Amount claimed. | Time of interest. | Amount of interest at 12 per cent. | Total amount allowed. |
|-----|------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------------|-----------------|-------------------|------------------------------------|-----------------------|
|     |                                                      |               |                                                                                                                |                 | Years.            |                                    |                       |
| 1   | I. J. Roberts .....                                  | Canton.....   | House pillaged by mob; damages settled in 1847 at \$1,400 .....                                                | \$2,800 00      | 12½               | \$2,604 00                         | \$5,404 00            |
| 2   | R. S. Maclay et al. ....                             | Foochoo ..... | House again pillaged in 1857 by Chinese soldiers; damages \$1,400 .....                                        | 213 46          | 7                 | \$2,179 30                         | 392 76                |
| 3   | S. Drinker, dec'd, estate of .....                   | Macao .....   | Loss of advances paid to landlord by Chinese official interference at Foochoo, in 1852.                        | 1,281 21        | 4                 | 614 98                             | 1,896 19              |
| 4   | D. Ball .....                                        | Canton.....   | Balance of award by arbitrators for services to Chinese Government officers in 1856.                           | 409 60          | 3                 | 147 42                             | 556 02                |
| 5   | J. B. French, dec'd, estate of .....                 | do .....      | Furniture and books burned at the bombardment of Canton, Oct. 29, 1856.                                        | 1,800 00        | 3                 | 648 00                             | 2,448 00              |
| 6   | C. F. Preston .....                                  | do .....      | do .....                                                                                                       | 1,775 00        | 3                 | 279 00                             | 1,054 00              |
| 7   | A. P. Happer .....                                   | do .....      | do .....                                                                                                       | 1,313 25        | 3                 | 473 49                             | 1,786 74              |
| 8   | American Board of Presbyterian Missions.             | do .....      | do .....                                                                                                       | 2,472 00        | 3                 | 889 92                             | 3,361 92              |
| 9   | O. H. Perry .....                                    | do .....      | Furniture and silverware lost by burning of the foreign factories at Canton, Dec. 14, 1856.                    | 971 00          | 3                 | 349 56                             | 1,320 56              |
| 10  | American Board of Commissioners of Foreign Missions. | do .....      | Printing office, type, presses, books, &c., lost by burning of the foreign factories at Canton, Dec. 14, 1856. | 14,000 75       | 3                 | 5,040 27                           | 19,041 02             |
| 11  | Medical Missionary Society .....                     | do .....      | Furniture lost by burning of the foreign factories at Canton, Dec. 14, 1856.                                   | 267 00          | 3                 | 96 12                              | 363 12                |
| 12  | S. W. Williams .....                                 | do .....      | Type, furniture, books, &c., lost by burning of foreign factories at Canton, Dec. 14, 1856.                    | 7,550 00        | 3                 | 2,718 00                           | 10,268 00             |
| 13  | W. W. Cryder .....                                   | do .....      | Furniture, &c., lost by burning of the foreign factories at Canton, Dec. 14, 1856.                             | 885 54          | 3                 | 322 39                             | 1,217 93              |
| 14  | S. Robertson .....                                   | do .....      | Ladies' clothing and jewelry lost by burning of the foreign factories at Canton, Dec. 14, 1856.                | 638 50          | 3                 | 229 86                             | 868 36                |
| 15  | A. J. Case .....                                     | do .....      | Furniture and books lost by burning of the foreign factories at Canton, Dec. 14, 1856.                         | 1,000 00        | 3                 | 360 00                             | 1,360 00              |
| 16  | J. R. Smith .....                                    | do .....      | Furniture and books lost by burning of the foreign factories at Canton, Dec. 14, 1856.                         | 1,650 00        | 3                 | 594 00                             | 2,244 00              |
| 17  | H. S. Grew .....                                     | do .....      | do .....                                                                                                       | 460 00          | 3                 | 144 00                             | 604 00                |
| 18  | George Tyson .....                                   | do .....      | do .....                                                                                                       | 510 00          | 3                 | 183 60                             | 693 60                |
| 19  | C. W. Gaillard .....                                 | do .....      | do .....                                                                                                       | 140 00          | 3                 | 50 40                              | 190 40                |
| 20  | Southern Baptist Mission .....                       | do .....      | House and library lost by burning of the foreign factories at Canton, Dec. 14, 1856.                           | 1,184 44        | 3                 | 426 59                             | 1,611 03              |
| 21  | D. Vrooman .....                                     | do .....      | Furniture and books lost by burning of the foreign factories at Canton, Dec. 14, 1856.                         | 200 00          | 3                 | 72 00                              | 272 00                |
| 22  | P. Parker .....                                      | do .....      | Chinese books lost by burning of the foreign factories at Canton, Dec. 14, 1856.                               | 800 00          | 3                 | 108 00                             | 408 00                |
| 23  | P. L. Everett .....                                  | do .....      | Furniture, &c., lost by burning of the foreign factories at Canton, Dec. 14, 1856.                             | 279 00          | 3                 | 100 44                             | 379 44                |
| 24  | G. Nye, Jr. ....                                     | do .....      | do .....                                                                                                       | 885 06          | 3                 | 307 82                             | 1,192 88              |
| 25  | A. Heard, Jr. ....                                   | do .....      | do .....                                                                                                       | 1,029 00        | 3                 | 370 44                             | 1,399 44              |

|    |                                                      |                                                                                            |            |       |           |            |
|----|------------------------------------------------------|--------------------------------------------------------------------------------------------|------------|-------|-----------|------------|
| 26 | E. F. Parker .....                                   | Furniture, &c., lost by burning of the foreign factories at Canton, Dec. 14, 1856.         | \$1,000 00 | 3     | \$360 00  | \$1,360 00 |
| 27 | W. T. Hunter ( <i>in re</i> S. Drinker, No. 8) ..... | Balance of award by arbitrators, for services to Chinese Government officers in 1856.      | 621 30     | 4     | 298 22    | 919 52     |
| 28 | Seamen's Floating Bethel, trustees of .....          | Loss of floating chapel, furniture, &c., by Chinese troops at Whampoa, in Jan. 1857.       | 7,000 00   | 3     | 2,520 00  | 9,520 00   |
| 29 | C. T. Smith .....                                    | Furniture lost by burning of foreign factories at Canton, Dec. 14, 1856.                   | 200 00     | 3     | 72 00     | 272 00     |
| 30 | United States consulate .....                        | Flag-staff stays, &c., lost by burning of foreign factories at Canton, Dec. 14, 1856.      | 1,000 00   | 3     | 860 00    | 1,860 00   |
| 31 | S. E. Burrows & Sons .....                           | Loss of eight iron water tanks, by Chinese troops at Whampoa, Jan., 1857.                  | 1,000 00   | 3     | 380 00    | 1,380 00   |
| 32 | J. G. Purdon .....                                   | One bowling alley share (building and furniture destroyed at Canton, Dec. 14, 1856.)       | 95 00      | 3     | 34 20     | 129 20     |
| 33 | J. C. Beecher .....                                  | Furniture in seamen's bethel (private) destroyed by Chinese troops at Whampoa, Jan., 1857. | 250 00     | 3     | 90 00     | 340 00     |
|    |                                                      |                                                                                            | 54,103 01  | ..... | 21,408 82 | 75,506 83  |

CLASS II.—Statement of claims allowed in part.

| No.    | Name of claimant.                                         | Residence.    | Nature of claim.                                                                                                              | Amount claimed. | Amount disallowed or withdrawn. | Amount allowed. | Time of interest. | Interest on sum allowed at 12 per cent. | Total allowed. |
|--------|-----------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------|-----------------|-------------------|-----------------------------------------|----------------|
| 34     | O. H. Perry, assignee of Wetmore & Co.                    | Canton.       | Loss of goods and furniture and expenses removal, caused by burning of factories at Canton, December 14, 1856.                | \$2,248 42      | \$1,938 92                      | \$309 50        | 3                 | \$111 42                                | \$420 92       |
| 35     | W. P. Blanchard, receiver of King & Co., insolvent.       | do.           | Loss of furniture, damages in removal, Chinese debtors, &c., at Canton, December 14, 1856.                                    | 37,391 10       | 35,361 10                       | 2,000 00        | 3                 | 720 00                                  | 2,720 00       |
| 36     | Augustine Heard & Co.                                     | do.           | Loss of furniture, rents, prospective profits, demurrage, &c.                                                                 | 53,452 15       | \$50,350 00                     | 8,419 10        | 3                 | 3,030 87                                | 11,449 97      |
| 37     | Russell & Co.                                             | do.           | Loss of furniture, demurrage, goods of aliens, &c.                                                                            | 81,100 00       | 79,100 00                       | 2,000 00        | 3                 | 710 00                                  | 2,720 00       |
| 38     | Thomas Welsh                                              | do.           | Loss of furniture, goods, expenses, loss of contracts, &c.                                                                    | 62,141 72       | 58,115 35                       | 4,026 37        | 3                 | 1,419 49                                | 5,475 86       |
| 39     | Union Billiard Club, by George Tyson, secretary.          | do.           | Eleven American shares, at \$55.50 each (club-house, &c., destroyed).                                                         | 1,110 00        | 499 50                          | 610 50          | 3                 | 219 78                                  | \$830 28       |
| 40     | W. C. Hunter                                              | do.           | Furniture, books, &c., property of aliens, demurrage, &c.                                                                     | 7,179 95        | 5,165 95                        | 2,015 00        | 3                 | 725 04                                  | 2,739 04       |
| 41     | Alvord & Co.                                              | do.           | Furniture, &c., anticipated profits, property of Chinese comprador.                                                           | 30,674 00       | 24,710 00                       | 5,964 00        | 3                 | 2,147 04                                | 8,111 04       |
| 42     | J. Purdon & Co.                                           | do.           | Furniture, merchandise, clothing, rents, commissions not earned, Chinese property, &c.                                        | 423,179 64      | 312,004 79                      | 111,174 85      | 3                 | 40,022 95                               | 151,197 80     |
| 43     | Humphrey Marshall, by W. C. Hunter, agent.                | Kentucky.     | Furniture and chinaware.                                                                                                      | 890 00          | 294 00                          | 506 00          | 3                 | 182 16                                  | 688 16         |
| 44     | Thomas Hunt & Co.                                         | Whampoa.      | Docks, buildings, and materials, cloths, &c., tonnage, depreciation, loss of revenue, caused by Chinese troops, January 1857. | 290,067 51      | 192,199 32                      | 97,868 19       | 3                 | 35,232 55                               | 133,100 74     |
| 45     | J. B. Endicott                                            | Macao.        | Steam boilers, chains, anchors and king-posts at Whampoa, January 1857.                                                       | 1,400 00        | 100 00                          | 1,300 00        | 3                 | 468 00                                  | 1,768 00       |
| 46     | A. P. Edwards.                                            | New Haven.    | False imprisonment and severe corporal injury by Chinese officers at Canton, 1841.                                            | 50,000 00       | 40,000 00                       | 10,000 00       | 18                | 21,600 00                               | 31,600 00      |
| 47     | F. Cady, deceased, estate of.                             | Whampoa.      | Loss of furniture, boats, merchandise, &c., by Chinese troops at Whampoa, Jan., 1857.                                         | 19,817 00       | 14,817 00                       | 5,000 00        | 3                 | 1,800 00                                | 6,800 00       |
| 48     | Russell & Co., agents for underwriters and H. W. Hubbell. | New York, &c. | Piracy on ship and cargo, October, 1854, California claims.                                                                   | 74,285 86       | 44,571 22                       | 29,714 14       | 5                 | 17,828 48                               | 47,542 02      |
| 49     | Alvord & Co.                                              | Canton.       | do.                                                                                                                           | 10,974 24       | 6,584 54                        | 4,389 70        | 5                 | 2,633 82                                | 7,023 52       |
| Total. |                                                           |               |                                                                                                                               | 1,185,821 09    | 900,524 74                      | 285,296 35      |                   | 128,891 60                              | 414,187 95     |

UNITED STATES BOARD OF CLAIMS, Macao, January 13, 1860.



By a reference to the foregoing statement and the evidence before the Commission in each case, it will be seen that all the claims are embraced in the following classes:

|                                                                                                                                                                                            |                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Damages resulting from the operations of the British forces against Canton and its vicinity in 1856 and 1857, which include 41 out of the 48 awards, and for which there were allowed----- | \$397,618 17     |
| Mob violence and robbery, claims Nos. 1, 2, and 48, allowed-----                                                                                                                           | 57,660 00        |
| Contract for war aid, claims Nos. 3 and 27, allowed-----                                                                                                                                   | 2,815 71         |
| Arrest and cruel treatment, claim No. 46, allowed-----                                                                                                                                     | 31,600 00        |
|                                                                                                                                                                                            | <hr/> 489,694 78 |

*War damages.*—The losses and injuries sustained under this first class by American citizens, and for which they were awarded indemnification by the Commission, resulted from the bombardment of Canton by the British forces, the burning of the factories during the military operations in 1856, the movements of the fleets in that vicinity in 1857 (Whampoa), and the indiscriminate pillage which attended these operations.

The Government of the United States from its foundation has uniformly maintained that neither according to the principles of international nor domestic law could it be required, either by foreign Governments or individuals, to indemnify them for damages resulting from the war operations of its own troops or those of foreign nations or rebels, or from their pillage. Secretary Seward stated this position at some length in rejecting a claim for damages occasioned by the bombardment of Greytown in 1854. (Letter Feb'y 26, 1868.) Quoting this letter, the United States Court of Claims adopted "these views as a correct exposition of the laws and usages of nations upon this subject" (4 C. C., 549). See also President's Messages, Feb'y 12 and June 1, 1873; 20 Opinions Judge-Advocates, 525; 26 Ib., 242, 247; Law of Claims against Governments, Chaps. 3 to 6, H. R. 134 43d Cong., 2d sess.; Whiting's War Powers, ed. 1871, 340.) The same position has been taken by all the recent claims commissions or tribunals in which the United States has participated. Hon. R. S. Hale, counsel of the United States before the British and American Commission, in his final report, says: "Claims for injuries by bombardment, the passage of armies, \* \* \* the incidental destruction of innocent property involved in the destruction of public stores, and the destruction of the enemy, \* \* \* were all disallowed by the unanimous voice of the Commissioners. \* \* \* Where property was in its nature not a proper subject of military use, or, being such, was not applied to military use, or where the taking appeared to be mere acts of unauthorized pillage or marauding, the claims were disallowed." (Hale's Report, pp. 44 and 50.) The same course was taken in a large number of cases by the American and Mexican Commission under the treaty of 1868. The French and American Commission, under the treaty of 1880, held, in various cases, that French citizens resident in the United States could not recover from the Government of the latter for damages occasioned, during the rebellion, by the operation of the United States Army in bombarding a town, in burning a town or property therein during battle or to prevent its being occupied or used by the enemy, or the unauthorized appropriation or pillage by soldiers. (Boutwell's Report, French and American Commission, pp. 146-7, 157-8, 159-76.)

If the foregoing principles, maintained by the United States and sustained by all the claims commissions referred to, had been observed by the Chinese indemnity commission, forty-one out of forty-eight claims, on which \$397,618.17 were allowed, would have been rejected.

*Mob violence and robbery.*—One-half of claim No. 1, and claims Nos. 2 and 48, upon which \$57,660.90 were paid, were in compensation for damages arising from acts of mob violence or robbery by lawless bands. If "the principles of international law and the usages of national comity," enunciated by Secretary Evarts in his note of December 30, 1880, to the Chinese minister, and affirmed by Secretary Blaine (Foreign Relations, 1881, pp. 319, 335), had been followed by the indemnity commission, all of these claims would also have been rejected.

*Contract for war aid.*—Two American citizens, Drinker and Hunter (claims Nos. 3 and 27), entered into an agreement, in 1855, with certain Chinese local authorities to aid them in an attack upon some rebel forts. Upon being informed of the facts, the United States minister, R. M. McLane, disapproved of the movement, and directed them to desist from it, and the United States naval officers "threatened the said Captain Drinker with severe penalties unless he abandoned the enterprise." Drinker and Hunter made a demand upon the Chinese for money expended under the agreement. The dispute was submitted to two foreign residents of Canton for arbitration, and they awarded Drinker and Hunter \$1,902.51. The Government of the United States has repeatedly held that where a citizen voluntarily enters into a contract with a foreign Government or its local authorities, he must look to that Government for the enforcement of his contracts.

and that he has no right to call upon his own Government to protect his claim; and with much more reason, as in this case, when the American minister and authorities prohibited the transaction.

*Arrest and cruel treatment.*—A. P. Edwards, claim No. 46, with others, was arrested by Chinese soldiers, in 1841, during the hostilities between the British and Chinese, under the mistaken belief that he was a British subject; was placed in irons and otherwise cruelly treated; was taken the same day to Canton, when, on learning that he was an American, the Viceroy ordered his release, the imprisonment lasting less than a day. "The mandarins expressed their sorrow at the detention, saying it was a mistake, as they supposed them to be Englishmen." (H. Ex. Doc. 29, 40th Cong., 3d sess., p. 162.) Of all the claims presented to the Commission, this appears to be the sole one which would stand the test of a strict interpretation of international law. Notwithstanding the prompt release and apology of the Chinese officials, Mr. Edwards was allowed \$31,600.

*Rejected claims paid.*—On the 26th of January, 1860, Minister Ward transmitted to the Secretary of State the final report of the Commission, and said: "As far as I have been able to learn, every claimant is content with the amount awarded. Certainly such ought to be the fact, and yet the amount secured by the treaty will not be exhausted; but after paying every just demand against the Chinese Government, there will be a surplus of more than \$200,000." (Ib., p. 12.) And Minister Burlingame, in 1865, in reporting his settlement with the bankers having charge of the disbursement of the fund, wrote to the Secretary of State as follows: "There is no other demand that *can ever come up* for payment of this indemnity fund, which has not been examined and decided, and the act of Congress approved March 3, 1859, has been fully carried out in every particular." (Foreign Relations, 1865, p. 442.) It appears, however, that after transmission of the surplus to Washington there has been paid to rejected claimants the sum of \$151,259.64, being the Caldera claim, \$113,017.11, and Nott & Co., \$38,242.53. (Secretary Frelinghuysen, May 16, 1884; S. R. 934, 48th Cong., 2d sess.)

*The Caldera claim.*—The Caldera was a Chilean vessel, but the claim was made by New York underwriters. The facts of the case are succinctly stated by the House Committee on Foreign Affairs, as follows:

"The bark encountered a severe typhoon on her first day out from Hong-Kong, bound for San Francisco with a cargo of tea; the sails were 'torn into shreds,' and the vessel was so severely strained by the force of the gale and the heavy sea that she leaked very badly, necessitating the constant working of the pumps to keep her free; that after driving before the gale for two days, she grounded while endeavoring to take shelter in a bay on the coast of the Five Islands, suffering considerable damage to her hull. After working off the bar upon which she had struck she anchored in the bay, the men being kept continually at work at the pumps to keep the water in the hold from gaining upon them; that while thus engaged the crew were surprised and overpowered by Chinese pirates, and the cargo plundered; that at that time there was 4 feet of water in the hold, immersing about one-third of the cargo; that the vessel proved a total loss, and a large part of the cargo was carried away by the pirates; that upon being informed of this outrage the Chinese Government sent several war junks, in conjunction with war vessels of foreign powers, and dispersed the pirates, recovering a small portion of the stolen property; that both the hull of the vessel and her cargo had been seriously damaged by the elements, and her rigging almost totally destroyed before she entered the harbor where the robbery was committed, is placed beyond all question by the testimony of the master of the Caldera and others." (H. R. No. 970, 48th Cong., 1st sess.)

The total amount claimed before the commission was \$89,727.09. The commissioners were divided in opinion, Dr. Bradley rejecting the claim *in toto* and Mr. Roberts allowing \$54,566.14, which allowance was approved by Minister Ward and paid. Commissioner Bradley held that it was "clearly stipulated in Article XXVI (treaty of 1844) and of Article XIII (1858) that 'the Chinese Government will not make indemnity for the goods lost' by piratical depredations on our commerce. \* \* \* A decision in favor of the claimants would be unprecedented. \* \* \* Numerous like instances have, within the last seventeen years, occurred in waters over which China exercises jurisdiction, for which neither British nor American underwriters have ever asked indemnity. \* \* \* Piracy is one of the risks against which they insure; and it would be as reasonable to insist on Chinese indemnity for losses by Chinese typhoons as for those by Chinese pirates."

Notwithstanding the award and its payment, the underwriters resubmitted their claim in 1863 to Minister Burlingame, asking for the further sum of \$68,078.67. Mr. Burlingame made an exhaustive review of the case, and transmitted it to the Secretary of State, with the following conclusions thereon: "From these facts it appears that the claim was fully considered and decided under the most favorable circumstances for the claimants, who received two-thirds of the sum originally claimed, when, it seems to me, they were not entitled to one farthing. I agree entirely with the able opinion of Dr. Bradley against the whole claim, and also with the antecedent opinion of Minister McLane,



in November, 1854, in the same sense. \* \* \* After this award, to learn that a still further claim should be put forward *fills me with amazement.*" (For. Rel., 1865, pt. 2, p. 408.)

In 1862 two American vessels were wrecked and plundered by Chinese pirates or wreckers, under similar circumstances, and Mr. Burlingame decided that the sufferers had no claim to indemnity under the treaty. (For. Rel., 1864, pt. 3, p. 337.)

In spite of the foregoing facts, claimants succeeded in obtaining from Congress the passage of an act (June 19, 1879) by means of which they secured from the surplus fund the sum of \$113,077.11, making a total payment on this claim of \$170,683.25, upon which Minister Burlingame declared "they were not entitled to one farthing."

*The Knott & Co. claim.*—The facts of the case, as stated by the claimants themselves, are as follows: "The Neva sailed at 3 p. m. on the 17th November, 1857. While at anchor the same evening \* \* \* five Chinese came alongside, requesting passage to Foochoo, which was granted them; at about 11 p. m. they, with the assistance of the Chinese portion of the crew, took possession of the vessel, murdered the captain and some of the crew, and, after securing the remainder, the hold was broken open, and a large amount of treasure, of which four boxes, valued at \$16,197.60, were our property. \* \* \* The Chinese escaped with their plunder, by boat, to the mainland." (Report of Commission, p. 119.) The claim was rejected by the Commission as invalid. It appears, however, from the letter of Mr. Frelinghuysen of May 16, 1884, that the claimants finally secured from the State Department the payment from the surplus fund of \$38,242.53 by virtue of the act of Congress of February 22, 1869.

It results that the total amount received by claimants out of the indemnity fund paid to the United States by China, by virtue of the claims convention of 1858, was \$643,994.42; of which amount it is believed that at least \$600,000 was not warranted under a strict application of international law, as interpreted by the Government of the United States, but was conceded by China, as a mark of appreciation of the friendly attitude of the United States during the hostilities with Great Britain and France.

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[Inclosure No. 4.]

("The whole international code is founded upon reciprocity."—WHEATON, Lawr., 6th ed., p. 421.)

*Protection of Americans and diplomatic intervention in China.*

*The policy of the United States.*—Mr. Burlingame, while acting as minister of the United States in China, held an important interview with Prince Kung, in which he discussed with the Prince three points, stated by him as follows: "The sovereign right of the Chinese Government to legislate on its own domestic affairs, the importance of comity and generosity in international intercourse, and wisdom of dealing with individual peculiarities." (For. Rel., 1865, p. 446.) In acknowledging Minister Burlingame's dispatch transmitting the interview, Hon. William H. Seward, Secretary of State, says: "The President of the United States desires to make known his satisfaction with the very just, liberal, and friendly sentiments expressed by Prince Kung and his associates of the foreign board at these interviews. The Government of the United States is not disposed to be technical or exacting in its intercourse with the Chinese Government, but will deal with it with entire frankness, cordiality, and friendship. The United States desires neither to interfere with the distinct and ancient habits and customs of the Chinese people nor to embarrass the members of the foreign board in their difficult and responsible labors. While insisting always upon rights stipulated in solemn treaties, the wish of this Government is to promote that esteem which will conduce to the mutual advantage of both nations." (For. Rel., 1865, p. 461.)

Soon after the visit of the Chinese embassy, headed by Mr. Burlingame, to the United States, in 1868, Mr. Fish, Secretary of State, sent a dispatch to Mr. Bancroft, American minister in Berlin, in which he used this language: "I propose to give briefly the views of the Department as to the policy to be pursued towards China. I am induced to do this mainly because the *chargé d'affaires* of North Germany has, under instructions of his Government, inquired of me whether the President still adheres to the principles established by the additional articles to the treaty of June 18, 1858, which were concluded July 28, 1864. \* \* \* The great principle which underlies the articles of July, 1868, is the recognition of the sovereign authority of the Imperial Government at Peking over the people of the Chinese Empire, and over their social, commercial, and political relations with the western powers. Although it is true that many of the Christian governments, including the United States, had before then concluded treaties with the Impe-



rial Government, yet it is scarcely exaggeration to say that their relations at that time were rather those of force than of amity. \* \* \* Those treaties closed a war which resulted disastrously to China; before their ratification could be exchanged, another war became necessary to enforce them; the concessions they contained were forced from the Imperial Government. \* \* \* The treaty negotiated by Mr. Burlingame and his colleagues was a long step in another direction. It came voluntarily from China, and placed that power in theory on the same diplomatic footing with the nations of the western world. \* \* \* The apprehension has been expressed lest the operation of the eighth article of the treaty of July should put a stop to this co-operative policy (of the Christian powers), and I am bound to say that, so far as that policy was aggressive and attempted to force upon China measures which could not be enforced upon a European or American State by the rules of the equitable code which regulates the intercourse of civilized nations, in my judgment, that article may, when ratifications are exchanged, prevent the United States from participating in such a policy." (For. Rel., 1870, pp. 304-5.)

And a year later Secretary Fish, in requesting the Secretary of the Navy to send certain instructions to Admiral Rogers in Chinese waters, writes: "The present relations between the United States and China are unusually amicable. The policy inaugurated by Mr. Burlingame and Mr. Seward at Washington, whereby the Chinese Empire was placed on the footing of the civilized states of the west, and recognized as an organized central power, was essentially an American policy in its inception, and is so regarded in the Chinese mind. From the best information which this Department can obtain, this policy is one calculated to increase American influence and interests in China." (For. Rel., 1870, p. 332.)

*Judicial rights of Americans in China.*—Attorney-General Cushing, who had himself been the diplomatic representative of the United States in China, after a personal conference with Messrs. McLane and Parker, two other ministers to that country, gave an elaborate opinion respecting judicial authority in China, in which he assumed the position that "in controversies between citizens of the United States and subjects of China the case is to be tried by the court of the defendant's nation." (Op. Att'y-General, Vol. VII, p. 496.) And again, "secondly, as to demands by an American against a Chinese, the former must, of necessity, be content with such judicial or executive action of the Chinese Government in the premises as appertains to their institutions, and as by special application in each case, or by general application, may be required on the part of the public officers of the United States." (Ib., p. 517.) This opinion was transmitted to the consuls in China by the Department of State October 8, 1855, "for their instruction."

In 1879 a conference of the diplomatic representatives of all the treaty powers was held at Peking to consider the judicial system, extraterritorial rights, and other subjects. Mr. G. F. Seward, minister of the United States, took a leading part in this conference, and submitted it to carefully-prepared memorandum, in which he considered the subject of the "administration of justice in cases in which Chinese are accused by our people of offenses and crimes against their persons or property, or in which reclamations are made of a civil nature." In this paper all the treaty stipulations are quoted, and Attorney-General Cushing's opinion, above cited, is accepted as to jurisdiction. As to criminal matters, he asserts that "no foreign government has questioned the principle that the Chinese remain completely subject to their own authority in criminal matters;" and that "civil matters between Chinese and foreigners must be tried in the court of the defendant." Upon reporting his action and views to the Department of State, they were approved by Secretary Evarts. (For. Rel., 1880, pp. 148-153, and 214.)

These references are made to show that, although certain extraterritorial rights were conceded to American citizens by the treaties, which, in the language of Secretary Fish, "closed a war which resulted disastrously to China," and whose stipulations were "forced from the Imperial Government," these treaties have never been interpreted as taking away the "sovereign authority of the Imperial Government at Peking over the people of the Chinese Empire" in respect to remedies afforded American citizens for wrongs or injuries done by Chinese subjects to their personal or property interests; in other words, that as to these matters the Americans in China enjoy the same judicial and executive rights as Chinese enjoy in the United States—a free resort to the courts and authorities of the country of their residence.

*American vs. Chinese justice.*—In discussing the relative fair dealing of the American residents of Chinese ports, and Chinese merchants and people, and the impartiality and fidelity of consular and Chinese courts, Hon. C. W. Bradley, LL. D., United States Claims Commissioner, long a resident of China, used the following language in one of his decisions: "It is a mortifying fact that were a balance to be struck between the aggregate losses suffered by Americans from Chinese pirates, Chinese thieves, and Chinese debtors, on the one hand, and on the other, the injuries inflicted on Chinese merchants, tradesmen, compradors, and citizens in the non-payment of debts honestly due them by

American merchants, agents, shipmasters, mariners, &c., we should find that balance to our debt in a ratio of full 90 per cent. I speak advisedly.

"On the score, too, of official fidelity and punctuality in fairly carrying out their treaty obligations as against their own countrymen, I apprehend that the consular officers of America and Europe have been guilty of as many and as serious laches as can be produced against the native magistracy of China in their official shortcomings toward foreigners. Such, at least, is the result of my observation. Due provision is also made by the Chinese code of statutes and ordinances for the punishment of malfeasance on the part of officers. \* \* \* These statutes cover the whole ground of official torts, and are frequently enforced with exemplary impartiality and rigor." (H. Ex. Doc. 29, 40th Cong., 3d sess., p. 176.)

*Indemnity for mobs and lawlessness.*—The eleventh article of the treaty of 1858 only authorizes the intervention of the United States officials in the case of mobs or other lawlessness, to the extent of asking the *punishment* of the offenders according to Chinese law, but confers no authority upon them to demand *indemnity* for losses sustained by American residents. In this respect the latter are "placed on a common footing \* \* \* with the subjects of China."

But the official and published records of the Government of the United States show that, in the past thirty years, that Government has repeatedly intervened officially and demanded of the Chinese Government not only the *punishment* of rioters, robbers, and other lawless persons, who have destroyed or appropriated the property of American citizens in China, but has also asked the Imperial Government either to compel the out-laws or the local authorities to indemnify those citizens for the losses sustained, or has asked the Imperial Government itself to pay these losses. The most noted instance is that of the convention of 1858, when, at the close of the British and French hostilities against China, at the urgent instance of the Government of the United States, \$735,258.97 were paid by China to satisfy the claims of American citizens, a large amount of which was for losses occasioned by mobs, robbery, and other lawless acts of individual Chinese subjects. For detailed information as to these claims, reference is made to inclosure No. 3.

Since that date the official publications disclose a number of cases, one of the most important being that of the Tien-Tsin riot in 1870, when the native population attacked the French Catholic mission in that city, destroyed the cathedral, the French consulate, and the establishment of the French Sisters of Mercy, and the mob resulted in the death of sixteen French subjects, including the consul, and three Russians. Although the riot was directed against the French Catholic missions, some property belonging to the American Board of Missions was destroyed or injured. The American minister, Mr. Low, very promptly united with the other members of the diplomatic corps in a joint note to Prince Kung, calling urgently upon the Imperial Government to take prompt measures to punish the rioters, in which they state that "it is indispensable that, as other countries hear the tidings of this crime, they should, at the same time, be informed that justice is being done." (For. Rel., 1870, p. 359.)

Notwithstanding that Prince Kung had given assurance that measures had been taken "to execute upon the lawless-men the severest penalties of the laws," and had notified the French minister that the guilty should be punished with death and other severe penalties, as soon as the investigation could be concluded, the American minister joined with his colleagues in a second note, saying: "We conceive it to be our duty, without loss of time, to state to your imperial highness that we regard the decision arrived at, after three months' delay, as utterly unsatisfactory." (For. Rel., 1871, p. 69.) The final results of the proceedings of the Chinese authorities was the execution of nineteen persons, and the sentence of twenty-six others to army service, indemnity for the property destroyed, and proper apologies to the French Government. Mr. Low reports to the Department of State that after having a careful estimate made of the damages suffered by the American missionaries, he directed the consul at Tien-Tsin to "present the claim to the local authorities; and a settlement was made by their agreeing to rebuild the rented premises in a manner satisfactory to the owner, and the payment in money of the claim for damages to the larger chapel. This has all been done to my entire satisfaction. \* \* \* The settlement of this matter adjusts all legal and proper claims for losses or damages sustained by citizens of the United States in consequence of the riot at Tien-Tsin." (For. Rel., 1871, p. 75.)

In 1872 several American missionaries who had, contrary to the treaties, established themselves at Hangchow, in the interior, 140 miles away from the open ports, were annoyed by the act of the local authorities in the arrest of the persons who had sold them the land upon which their chapels had been erected. Complaint was made to the nearest consul, and the latter went at once to Hangchow, remonstrated with the authorities, and insisted upon the release of the Chinese, and that ample assurances should be given of protection to the missionaries, and after some delay the request of the consul was com-



plied with, notwithstanding Minister Low reported to the Secretary of State, "My opinion is clear and decided that missionaries have no right to reside permanently away from the open ports." Secretary Fish commended the conduct of the consul, but directed the attention of the missionaries to "the embarrassment which follows the assumption of privileges which cannot be claimed or defended under the treaty." (For. Rel., 1873, pp. 118, 135, and 137.)

Upon Minister Low's retirement in 1872, the missionaries of the American Board tendered him their thanks "for the promptness and energy with which you (he) secured redress for violence done \* \* \* by an angry mob in Tu-chen;" the representatives of the Methodist Episcopal Missions express their "deep obligations \* \* \* for the prompt, able, and successful vindication of our right to hold chapel premises \* \* \* in the face of determined hostility;" and the missionaries at Peking, as a body, congratulate him "on the happy adjustment of many difficult questions in regard to the work of missions." (For. Rel., 1873, p. 201.)

A riot occurred at Shanghai in 1874, in which several Chinese were killed by the foreign police and residents, and some slight injury done to Americans by the natives. The consul-general, Mr. Seward, took an active part in suppressing the riot by calling upon the commander of an American naval vessel in the port to land a force of marines and in other ways. The United States minister, Dr. Williams, called upon the consul to send him the "particulars of the various claims for damages suffered by American citizens." Consul Seward reports: "I have no further details about the injuries suffered by foreigners (Americans) than those stated in the inclosures. Mr. Fisher, with the modesty characteristic of many foreigners in such cases, values his bruised temple and two departed teeth at 10,000 taels, or \$14,000. Rev. Mr. Allen and Mr. Haskell each lost a carriage." (For. Rel., 1874, pp. 257-74.) Mr. Fisher's claim was disallowed by the Department of State, on the ground that he carelessly exposed himself to the mob, and that his injuries were not severe;" but the other damages seem to have been satisfactorily adjusted.

Rev. H. Corbett, an American missionary, went with his family in 1873 to Chi-mi, 130 miles away from a treaty port, and established his work there. A few months after his arrival he began to feel the effects of the native opposition, being twice stoned and hooted out of the neighboring villages, and finally, fearing further bodily harm, fled from the place and returned to the treaty port whence he had come. Some lawless people, hearing he had gone, entered and sacked his house. Mr. Williams, the minister, as soon as he had intelligence of the event, asked the Imperial Government to take action, "so that the affair may be equitably judged and settled. This is highly important." The nearest consul also intervened with the local authorities; but after some delay and unsatisfactory progress toward the settlement desired, Minister Williams directed Mr. Sheppard, consul at Tien-Tsin, to go in person to the port of Chefoo, "to bring the affair to a conclusion according to the obligation of the treaty and justice.

\* \* \* In asking for redress, the arrest and punishment of the ringleaders should be demanded \* \* \* A careful list of the property should be made out which was stolen or destroyed, with its actual value, and compensation made to Mr. Corbett for his losses. When these two points are obtained, the district magistrate may well be made to issue a proclamation setting forth the freedom guaranteed to Christians."

Mr. Sheppard went to Chefoo, followed by an American naval vessel, which remained till the conclusion of the case. The consul reports that on the 4th of June, 1874, there was a "final and most satisfactory settlement"; that twenty-eight rioters were arrested, and with a number of witnesses, brought from the scene of the disturbance to Chefoo, a distance of 140 miles, where the trial took place, with the following result, as given by the consul: "1. Four men, convicted of having been prominently engaged in the two cases of stoning, to be beaten with the large bamboo; one of them eighty blows, two others sixty each, and one forty blows. The local constables to receive eighty blows each and be dismissed from office. 2. Mr. Corbett's pecuniary losses, estimated at 380 taels, to be paid within fifteen days by the persons who entered his house, they to be imprisoned in the mean time, and the taotai to guarantee payment. 3. The remainder of the criminals to be pardoned at my special request. 4. All of the prisoners to enter into a bond to keep the peace and guarantee Mr. Corbett's personal safety while he remains in Chi-mi. 5. The taotai to issue a stringent proclamation \* \* \* threatening severe punishment \* \* \* for similar outrages in the future. 6. When Mr. Corbett returns to Chi-mi the taotai is to furnish him with a special passport, and also a letter to the Chi-mi magistrate." All the facts of the case, with a copy of the proceedings attending the trial and punishment, having been sent to Washington, Secretary Fish communicated to Minister Williams "the cordial approval of the Department." (For. Rel., 1874, pp. 274-297 and 345.)

In 1875 the United States consul at Tien-Tsin united with his Christian colleagues in a joint note to the governor of the province, calling his attention to the fact that a pict-



ture representing the massacre of foreigners in 1870 was being publicly exhibited at a fair in the interior of the province, tending to excite the populace to violence, and asking the governor "to take steps to discover and punish the exhibitor and painter of this picture; also to cause a proclamation to be posted \* \* \* stating why such punishment has been inflicted." To this note the governor replied that he had, upon the first appearance of this picture in Tien-Tsin, the year before, given orders to seize and burn every copy, and destroy the block, and that similar orders had been given respecting the interior, and steps taken to punish the possessors. This action of the consul having been reported to Secretary Fish, received the approval of the Department. (For. Rel., 1875, pp. 345, 400.)

Two cases of riotous assault were reported in 1875 on the Methodist missions at Shui Chang and Kin-Kiang. In the first case the consular agent promptly intervened, and asked the Chinese authorities for "reimbursement for their pecuniary losses, as follows: For riot of 1873, in which they lost money expended for chapel rent, furniture, wages of men, books, ready money, and traveling expenses, \$200; and for the riot of 1874, in which were taken from the persons of their native assistants money and clothing to the amount of \$40, besides traveling expenses, and other expenses to which the mission was subjected, the sum of \$125; besides just compensation for personal injuries." These demands were repeated by Minister Avery to Prince Kung. In the second case the mob destroyed the chapel and other buildings of the mission, and the consul asked the Tao-tai to "have the chapel and buildings connected with it repaired and put in the same condition as before the riot, and to make good all other losses sustained by the mission; and further, that you administer proper punishment to the ringleaders of the riot, as well as issue a proclamation," &c. In the second case the local authorities promptly complied with the consul's demands, and no appeal was necessary to the Imperial authorities. Minister Avery, in commenting upon these affairs to the Secretary of State, says: "The outbreaks reported are quite sporadic, no more indicating a conspiracy against foreigners than the acts of ruffianism against Chinese, which occur more frequently in the United States, and none of which have been made the subject of diplomatic remonstrance." (For. Rel., 1875, pp. 383-391 and 397.)

Rev. Mr. Sites, through the intervention of the American representative, brought a claim against the Chinese authorities for injuries received in an assault upon his chapel at Temping in 1879. The Chinese authorities offered a satisfactory amount of money in indemnification for his sufferings and losses, but declined to restore his chapel to him unless he agreed to carry on his religious services with certain restrictions deemed necessary by them. (S. R. 934, 48th Cong., 2d sess.)

Minister Angell, in 1881, reports a difficulty which occurred at the Presbyterian mission station near Peking, which, owing to his own prompt personal interposition with the Imperial Government, was suppressed before any serious damage was done. "Five men, who had been arrested and probably bamboozed, were placed before the gate of the mission with cangues upon their necks. \* \* \* The Tsung-li Yamén having shown a most commendable spirit in their treatment of this case." Secretary Blaine sent his congratulations to the minister on the result. (For. Rel., 1881, pp. 265 and 278.)

In the same year Minister Angell reported that he had intervened to obtain from the Imperial Government the release of all Protestant converts, Chinese subjects, from taxation for the expense of idol worship. He recognized that it was an "extremely delicate matter to interpose ourselves in the least between Chinese subjects and their own Government." But "the ministers at once expressed their willingness to have an order issued granting the wished-for protection to Chinese converts." Secretary Blaine again expressed his gratification, and added: "The Christian world cannot but be deeply impressed by this action of the Chinese Government." (For. Rel., 1881, pp. 272 and 297.)

Various petty depredations and thefts had from time to time been committed on the American missionaries at Teng-Chow-Foo, amounting altogether to \$73. Minister Angell considered this of sufficient importance to make it the subject of an official note to Prince Kung, asking "the local authorities to punish the thieves, to secure the return of the value of property taken, and to guard more vigilantly against such depredations in the future." Prince Kung accepted this intervention, and gave the desired orders to the local authorities. (For. Rel., 1881, p. 284.)

During the year 1881 two or more disturbances arose out of the American missionaries going into the interior of China, or away from the treaty ports, and purchasing or leasing property for chapels and mission uses. At Tsinan-fu a mob destroyed the chapel and "threatened the lives of the missionaries and their families. \* \* \* Happily the intervention of the authorities \* \* \* soon secured safety from personal danger." At Nan-chang-fu the acts of violence were confined to putting the native helper into a boat, with his effects, and sending him down the river. Mr. Angell, in reporting the cases to the Department of State, says it is the inclination of "the missionaries to suppose that our treaty rights are broader than they really are. \* \* \* But I see no assurance

in any treaty that the foreigner may rent or buy buildings in interior cities." Notwithstanding, Minister Angell saw proper to intervene with the Imperial Government, and sent official notes to Prince Kung in both cases, asking the punishment of the instigators of the disturbances, "that the missionaries be allowed to have an eligible site on the main street," and that the local authorities "be notified that proceedings like that now complained of shall not be repeated." Secretary Blaine, in approving this action, said: "It seems that the Chinese Government should, in a spirit of impartial justice, at once put a stop to these uncalled for and unprovoked annoyances by promptly punishing the offenders, and by affording our citizens every possible protection in the future." (For. Rel., 1881, pp. 286, 308, and 317.)

A further intervention of a similar kind was reported in relation to the property of the Southern Baptist mission in the vicinity of Canton, which was also approved by the Government at Washington. (For. Rel., 1881, pp. 282 and 316.)

Minister Young reported to the Department, in 1883, the occurrence of riots in Canton, "arising out of the folly of some Europeans, which unhappily led to loss of life" of Chinese subjects, and the joint intervention of the consular corps. Mr. Young takes occasion "to note the forbearance shown by the Chinese authorities, and the promptitude with which the viceroy intervened to preserve order and secure the interests and safety of the foreign settlement." (For. Rel., 1883, p. 209.) In the riots considerable property of foreigners was burned or destroyed, but at the request of the consul the local authorities made to the American sufferers full money compensation for all their losses.

[Inclosure No. 5.]

*The New Orleans and Spanish indemnity.*

In the month of August, 1851, an expedition which left the territory of the United States to aid in the attempted insurrection in Cuba was captured by the Spanish authorities, and fifty persons shot, many of them being American citizens. When the news reached the United States it created intense excitement, which at New Orleans and Key West culminated in mob violence against the Spanish subjects, who, it was alleged, had manifested exultation over the execution of the Americans in Cuba. In New Orleans the Spanish consulate was entered and plundered, as also the office of the Spanish newspaper, "La Union," and several coffee-houses and three tobacco stores were more or less injured. The public sentiment was so strong that the grand jury failed to indict the rioters, and no punishment followed the lawless acts of the mob. Soon after the events, Mr. Calderon, the Spanish minister in Washington, made a demand on the Secretary of State "for just satisfaction for the above-mentioned insults and acts of hostility, with a corresponding indemnification for the damages and injuries inflicted upon her Catholic Majesty's subjects." (S. Ex. Doc. No. 1, 32d Cong., 1st sess., p. 44.) And on the 14th of October, 1851, he again addressed the Secretary of State as follows: "Apprised of all the facts, Her Majesty's Government has ordered the undersigned to persist in asking, as he again asks, in the name of said Government, for full satisfaction for the aggravated insults committed upon the Spanish flag and upon Her Majesty's consul at New Orleans, and also that the Spaniards residing in that city shall be indemnified for the losses they have sustained at the hands of an infuriated and licentious mob." (Ib., p. 60.)

To this communication Mr. Webster, Secretary of State, replied, November 13, 1851, that "the Executive Government of the United States regards these outrages not only as unjustifiable, but as disgraceful acts, and as a flagrant breach of duty and propriety, and that it disapproves them as seriously, and regrets them as deeply, as either Mr. Calderon or his Government can possibly do. \* \* \* But the outrage, nevertheless, was one perpetrated by a mob, composed of irresponsible persons, the names of none of whom are known to this Government; \* \* \* that neither any officer or agent of the Government of the United States, high or low, nor any officer of the State of Louisiana, high or low, or of the municipal government of the city of New Orleans, took any part in the proceedings, so far as appears, or gave it any degree of countenance whatever. On the contrary, all these officers and agents \* \* \* did all which the suddenness of the occasion would allow to prevent it. \* \* \* The rights of the Spanish consul, a public officer residing here under the protection of the United States Government, are quite different from those of the Spanish subjects, who have come into the country to mingle with our own citizens, and here to pursue their private business and objects. The former may claim special indemnity; the latter are entitled to such protection as is offered to our own citizens. While, therefore, the losses of individuals, private Spanish subjects, are greatly to be regretted, yet it is understood that many



American citizens suffered equal losses from the same cause. And these private individuals, subjects of her Catholic Majesty, coming voluntarily to reside in the United States, have certainly no cause of complaint, if they are protected by the same law and the same administration of law as native-born citizens of this country." (Ib., p. 65.)

In accordance with this assurance given in Mr. Webster's note, the President, in his annual message to Congress, December, 1851, recommended that body to "make provision for such indemnity to him (the Spanish consul) as a just regard for the honor of the nation and the respect which is due to a friendly power might, in your judgment, seem to require." (Ib., p. 7.)

On the 10th of May, 1882, no action having as yet been taken upon the recommendation of the President, Senator Mallory, of Florida, introduced a resolution instructing the Committee on Foreign Relations "to have investigations made whether any Spanish subjects, not citizens of the United States, have sustained damage, by loss of property or otherwise, in consequence of public outbreak or violence in the State of Louisiana \* \* \* and into the propriety of authorizing the President to make indemnity to the Spanish Government for such Spanish subjects for said damages." In support of the resolution the Senator, after referring to the alleged outrages, said:

"We are all familiar with the maxim that there is no wrong without a remedy; and, if a class of American citizens had thus been dealt with by Spain or her colonies, I presume there is not an American who would not immediately respond that a stern demand upon the Spanish Government, supported by all our force, and a strict indemnity for the losses sustained, could be the only mode, the only measure of redress. I concede, as it has been held, that the municipal authorities of the place at which the property was destroyed are primarily liable, and may be justly held accountable for the damages sustained; but it is evident that while this liability offers the shadow of a remedy, it affords no substantial redress whatever; it but holds 'a promise to the ear to break it to the hope;' it is making the mode and measure of redress dependent upon the party legally bound to make it. It is, therefore, as wrong in principle as it is in policy to turn parties, who have thus been injured, over to the local or municipal authorities of the place where the wrong was committed. I think, sir, of course that Governments are no less bound by the rules of strict morality in this case than individuals; and that our Government, depending as it does on the will of the people, and representing in the aggregate the virtue of the people, has always manifested in its foreign relations, and is bound to manifest frankness and exact justice, and, in this case, if the assumptions I have made be correct, exact justice is no less dictated by a sound morality than by expediency, policy, and a far-seeing political forecast. Why, sir, foreign nations do not understand the workings of our political system. They do not understand that politically and socially our States are 'as distinct as the waves,' whilst in our foreign policy we are 'one, as the sea.' We have dealt with Spain as with the rest of mankind—as a unit; and if it be conceded that the subjects of Spain, whose property was destroyed, are entitled to indemnity, it will be difficult to make her understand why this indemnity should be sought from a single municipality or State of whose very existence she may in some cases be ignorant. It was not thus that we treated with a sister Republic. We did not condescend to deal with departments or States. Our merchants were deprived of their property, and in many instances of their liberty by departments or States; and we did not hold them responsible. We dealt with Mexico as a unit. We made our demands upon her, and surely we are bound to concede to Spain all that we asked from Mexico." (Cong. Globe, Vol. XXIV, pt. 2, pp. 1301-2.)

After the Senator's remarks the resolution was adopted without objection.

Meanwhile, the Spanish minister, under instructions from his home Government, again addressed Secretary Webster on the subject of indemnifying the private subjects of Spain for their losses. He called attention to the fact that the grand jury at New Orleans had not been able to agree, and that no punishment had followed the riot of the August previous. He claimed that there was "a striking difference between the occurrences in question and ordinary individual wrong. \* \* \* The damages have been occasioned by the people and citizens of the United States, in time of profound peace, not against this or that individual, but against a whole class of men, not in consequence of private wrongs, which are within the pale of the jurisdiction of ordinary tribunals, but from deadly hatred against the nationality of the parties aggrieved." In conclusion, the minister refers to the friendly relations existing between the two Governments, flatters himself that Mr. Webster "will find, in his equity and wisdom, the generous remedy that the condition to which several peaceful, industrious, and honorable Spaniards have been reduced by violence in New Orleans requires, \* \* \* and cherishes the hope that his Excellency the President will be pleased to give his assistance by recommending to Congress the appropriation of the necessary funds for this purpose." (H. Ex. Doc. No. 113, 32d Cong., 1st sess., pp. 3 and 4.)

This note was sent to the President by Secretary Webster, with the suggestion "that Congress be recommended to make provision for the reparation desired"; and the Presi-



dent transmitted the correspondence to Congress June 14, 1852, accompanied by a special message, in which he referred to the action of the Queen of Spain in pardoning certain American citizens who had participated in the invasion of Cuba, and expressed the belief that, without establishing a dangerous precedent, the indemnity asked for might be granted. Such an act, he said, "would tend to confirm the friendship which has so long existed between the two nations, and to perpetuate it as a blessing to both; and I therefore commend it to your favorable consideration." (Ib., pp. 1 and 2.)

On the 23d of June, 1852, Senator Mason, chairman of the Committee on Foreign Relations, made a report on this special message, accompanied by a joint resolution "for the relief of the Spanish consul and other subjects of Spain \* \* \* by indemnity for losses occasioned by the violence of the mob in the year 1851." Senator Mason, in his report, said:

"After a careful examination of the treaty of 1795, cited in the communication of the minister of Spain, the committee can find nothing, either in its letter or its spirit, which imposes on this Government the duty of providing the indemnity in question. Neither does the committee find any obligation on the United States, arising out of the good faith of nations to each other, to provide the indemnity asked for the losses sustained on the occasion inquired into. \* \* \* The jurisdiction of the Government of the United States over the persons and property of those within its territory is strictly limited by the Constitution. There is no power conferred by that instrument to provide by law for the security either of private persons or their property within the States in time of peace, unless it may be by treaty stipulations; neither, if the laws of the States themselves are inadequate to afford such protection, is it competent to this Government to interfere or control the subject. \* \* \* But although, in the opinion of the committee, there is no actual obligation on the Government of the United States to provide the indemnity claimed by Spain in this behalf, yet they are gratified to have it in their power to recommend it nevertheless, without risk of establishing an injurious precedent. In this view the committee fully adopt the sentiments of the President. \* \* \* Under the peculiar circumstances of the case such indemnity may, in the opinion of the committee, be quite as well considered as in the nature of awards for injuries to a friendly power, committed within the limits of the United States, as of compensation to individuals who suffered. \* \* \* The occurrences at Key West were similar in character, it is believed, to those at New Orleans, and fall within the same reasoning. They report, therefore, a joint resolution to cover both." (Cong. Globe, vol. 24, pt. 2, p. 1599.)

With some unimportant verbal amendments, the joint resolution was passed by the Senate without objection July 14, 1852. (Ib., p. 1769.)

As the session drew near to its close, the joint resolution was substituted by a clause inserted in the diplomatic appropriation bill making an appropriation of \$25,000 "to enable the President of the United States to make compensation to the Spanish consul and other subjects of Spain residing at New Orleans, and subjects of Spain at Key West for losses occasioned by violence in the year 1851." And in this shape the President's recommendation was adopted and the appropriation made by Congress. (Ib., pp. 2474-7.)

The Secretary of State thereupon caused an examination of the claims for damages to be made, and as it resulted that the appropriation of \$25,000 would not cover all the losses occasioned by the mobs at New Orleans and Key West, Congress was called upon, at the next session, to make another appropriation, or confer upon the Executive further powers, and on the 3d of March, 1853, a joint resolution was passed in the same terms as the former act, and providing that the losses, when examined and proved to the satisfaction of the President, should be paid "out of any money in the Treasury not otherwise appropriated." (10 U. S. Statutes, p. 262.)

By virtue of the two acts of Congress there was paid out of the United States Treasury to the Spanish consul at New Orleans \$12,682.05, and to twenty-two private individuals the sum of \$71,131.65, making a total payment to Spanish subjects, on account of damages caused by the riots of New Orleans and Key West, of \$83,813.70.

No. 65.

*Cheng Tsao Ju to Mr. Bayard.*

CHINESE LEGATION,  
Washington, D. C., February 15, 1886.

SIR: It is with profound regret that I am compelled by a stern sense of duty to bring to the immediate and urgent attention of your excellency the deplorable and defenseless condition of many thousands of

my countrymen residents in the States and Territories of this Union adjacent to the Pacific Ocean.

In various notes and personal interviews, during the past few months, I have given you information of particular localities and special instances where Chinese subjects have suffered mob violence, resulting in the loss of many lives, the destruction of much property, the breaking up of their business, and banishment from their homes. I am gratified to recognize the fact that you have given an earnest hearing to these representations, and through your active interposition his Excellency the President of this nation has by prompt executive action prevented much greater loss of life and destruction of property.

I desire to do the most ample justice to the spirit of rectitude and international good faith which animates the Government of the United States in its relations with that of his Imperial Chinese Majesty, and to commend in the highest terms the measures which have recently been adopted to protect the Chinese in certain of the Territories.

But aside from the representations which have been made to you by this legation, your excellency must be aware of the fact that there exists in the States and Territories named a concerted and wide-spread movement to deprive the Chinese residents of the protection and rights guaranteed to them by the treaties. The public press gives daily information of plans and resolutions, by organizations of great influence and power, for the continued and increased persecution of my countrymen, and accounts are constantly given of the execution of those lawless and violent measures. I am greatly grieved to have to assure you that these newspaper reports are but a very faint description of the real situation of these matters. Information which has been sent to this legation from sources which I am bound to credit represents the condition of my countrymen in the Territories and States mentioned as deplorable in the extreme. Telegrams received state that the Chinese have been driven by violence out of many places, their dwellings burned, their property robbed, and, in some instances, the people murdered, without any serious attempt being made by the authorities to prevent these acts or afford protection. I am informed that in many other towns and cities societies have been or are being organized with the avowed purpose of expelling the Chinese from such towns forcibly if necessary; and it is said that it is the intention of these societies not only to drive them from their localities, but to secure their expulsion from America, so that driven from one town they have no assurance of protection in fleeing to another. It is reported to this legation that there are thousands of law-abiding and peaceable subjects of China in the States and Territories named who have no place of safety in which to dwell, and that property to the value of many millions of dollars has no protection, so that the suffering is inexpressible. The outbreak is very dangerous and threatens to be wide-spread. The Chinese people are absolutely terrorized, and are flocking to San Francisco, where great destitution now exists among them. The bodily suffering falls most heavily upon the laborers, who, when driven out or compelled to leave through fear of mob violence, usually lose by robbery or abandonment all that they possess, and are coming to San Francisco in large numbers and in wretched condition of poverty and fear. But this is not the only injury that is being perpetrated. It is doubtless known to your excellency that a large amount of capital and property has been invested in the Pacific States and Territories by Chinese merchants under the guarantees of our treaties, and upon their faith in the protection afforded by America to property and its respect for law and order. In these outbreaks which

have occurred the mobs have not confined their work of violence to Chinese laborers, but Chinese merchants and traders as well have been driven out. I have reason to fear that if this work of expulsion goes on all the Chinese mercantile establishments in these States and Territories will be irretrievably ruined, and thus the disaster be greatly aggravated.

In view of these facts, and of what is made public in the newspaper press of this country, I deem it my duty to make an earnest appeal to your excellency, and through you to the noble President of this great nation, for the adoption of such prompt and vigorous measures as will secure to my persecuted and outraged countrymen the protection to their lives, their homes, and their property which is guaranteed to them by the solemn treaties between the two Governments. It does not become me to indicate what these measures should be. Neither is it my province to consider the internal relations of Government or the workings of the domestic laws of this country. I can only appeal to the Executive head of this Federal Government with which the treaties have been celebrated, and I make my appeal with the most assured confidence that suitable measures will be adopted to put an end to the reign of terror and persecution which now exists among my countrymen. I need not repeat the citations contained in my note of November 30 last to show what has been the attitude of the Government of the United States when its citizens have been placed in jeopardy by mob violence in China, and the conduct of my Government in such instances. Your excellency has given me too many proofs of your high sense of justice and humanity, and of your solicitous desire to observe in perfect good faith the treaty guarantees, to permit me to doubt a favorable response to this, my request. I only desire to add, that I deem the present condition of affairs, especially in California, involves great dangers, and to express the hope that the measures which may be taken will be prompt and effective.

Accept, sir, the renewed assurance of my highest consideration.

CHENG TSAO JU.

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No. 66.

COPIES OF SUNDRY TELEGRAMS RELATIVE TO THE TREATMENT OF CHINESE ON THE PACIFIC COAST, COMMUNICATED BY THE CHINESE LEGATION IN WASHINGTON TO THE DEPARTMENT OF STATE.

*Kwong Lun Hing & Co. to Cheng Tsao Ju.*

[Telegram.]

SAN FRANCISCO,  
February 11, 1886. (Received February 15.)

The Chew Yet Chinese Merchants' Exchange of San Francisco respectfully represent to your excellency that at the present time no protection is afforded the Chinese merchants in California outside of San Francisco. Chinese have already been driven out of many towns, notably, Redding, Bloomfield, Boulder Creek, Eureka, and many other places, without any attempt being made by the officials to prevent the same, and threats are now being made to drive them out of nearly all the towns and cities in this State. No protection is afforded the Chinese by the governor of California or the sheriffs of the different counties. Already our business has been seriously injured, as the indebtedness due us from country



merchants is very large, and if the Chinese are driven out of all the towns the merchants of San Francisco will be absolutely ruined. We earnestly entreat that you will take such immediate steps as will afford us and our property protection.

Chew Yet Chinese Merchants' Exchange.

KWONG LUNG HING & CO., *President.*

MAN LEE & CO., *Secretary.*

*Lee Kim Wah to Cheng Tsao Ju.*

[Telegram.]

SAN FRANCISCO, *February 13, 1886.*

The Chinese Six Companies of California respectfully represent to your excellency that at the present time the condition of our countrymen on this coast is deplorable in the extreme. The Chinese have been driven out of many towns, burning our dwellings, robbing our property, and murdering our people, without any attempt being made to prevent the same; and in many other towns and cities are organized societies with the avowed purpose of expelling the Chinese from such towns, forcibly if necessary, or planning to drive all the Chinese from America. Our suffering is inexpressible. There are over one hundred thousand Chinese who have no place of safety in which to dwell, and many millions of dollars of property have no protection. This outbreak is very dangerous; our people are absolutely terrorized, and are flocking to San Francisco, where great destitution now exists among them. The business of our merchants has also suffered greatly. If this expulsion of our people from the various towns and cities continues, our merchants will be irretrievably ruined. The laborers, who can ill afford it, also suffer great loss by being summarily driven out or compelled to leave through fear of mob violence, and are coming to this city in large numbers and in a destitute condition. Absolutely no protection is afforded our people by the governor of this State or the sheriffs of the various counties. We earnestly and respectfully request you to immediately call the attention of the Tsung-li Yamên with this meaning, to call a convention of the ministers of all nationalities to talk over this matter and send the result of their conclusion to the President of the United States, asking him to send troops to protect all the Chinese by our treaty with this country. We will send also cable dispatch to Chinese Government after you have sent your answer.

Yours, &c.,

CHINESE SIX COMPANIES,  
By LEE KIM WAH,  
*President.*

*Mr. Owyang Ming to Mr. Cheng.*

[Telegram.]

SAN FRANCISCO,  
*February 16, 1886. (Received February 19.)*

Petition from Chinese merchants resident in Portland, Oreg., asking protection against threatened outrages, forwarded to you to-day; immediate action asked.

OWYANG MING.

*Mr. Owyang Ming to Mr. Cheng.*

[Telegram.]

SAN FRANCISCO, *February 18, 1886.*

Chinese were driven out of Nicolaus, Sutter County, by a mob last night. We sent the following dispatch to governor:

The following dispatch from Marysville, Cal., just received at this office at half past one this morning:

"A mob attacked Chinese residents at Nicolaus, drove them on board a steamer. Ask governor to protect us immediately."

Will you please give your immediate attention to this?

OWYANG MING,  
*Consul-General.*  
F. A. BEE, *Consul.*

His reply is same in all cases like this:

The sheriff of Sutter County has not notified me of his inability to enforce the law in his county.

GEORGE STONEMAN,  
*Governor.*

Call the attention of Secretary to this.

OWYANG MING.

No. 67.

*Mr. Bayard to Mr. Cheng Tsao Ju.*

DEPARTMENT OF STATE,  
*Washington, February 18, 1886.*

SIR: I have the honor to acknowledge the receipt of the very interesting and important communication which you addressed to me on the 30th of November last touching the treatment of Chinese subjects in the United States.

The subject to which your note relates has already received the most earnest and careful consideration of the President, in whose annual message to the Houses of Congress in December last you cannot have failed to note very impressive recommendations fully recognizing the responsibility of this Government to observe, in letter and in spirit, the duties of benignity and friendship to which your note refers, as set forth in the treaties of 1868 and 1880, between the United States and China. And, although my formal reply to your note has been somewhat delayed, owing to causes beyond my control and in part painfully personal to myself, you will doubtless have observed, or at least conjectured, the influence of your communication is the following reference of the President to the condition and treatment of Chinese subjects resorting to this country:

In the application of the acts lately passed to execute the treaty of 1880, restrictive of the immigration of Chinese laborers into the United States, individual cases of hardship have occurred beyond the power of the Executive to remedy, and calling for judicial determination.

The condition of the Chinese question in the Western States and Territories is, despite this restrictive legislation, far from being satisfactory. The recent outbreak in Wyoming Territory, where numbers of unoffending Chinamen, indisputably within the protection of the treaties and the law, were murdered by a mob, and the still more recent threatened outbreak of the same character in Washington Territory, are fresh in the minds of all, and there is apprehension lest the bitterness of feeling against the Mongolian race on the Pacific slope may find vent in similar lawless demonstrations,

All the power of this Government should be exerted to maintain the amplest good faith toward China in the treatment of these men; and the inflexible sternness of the law in bringing the wrong-doer to justice should be insisted upon.

Every effort has been made by this Government to prevent these violent outbreaks and to aid the representatives of China in their investigation of these outrages; and it is but just to say that they are traceable to the lawlessness of men not citizens of the United States engaged in competition with Chinese laborers.

Race prejudice is the chief factor in originating these disturbances, and it exists in a large part of our domain, jeopardizing our domestic peace and the good relationship we strive to maintain with China.

The President's unambiguous and frank declarations stated have anticipated, for the most part, the tenor of my delayed reply to your note.

You and your Government are so well aware of the sincerity with which this Government professes its desire and intention to carry out in the fullest good faith all obligations springing from international comity, and inspired by the especial amity which finds expression in the several treaties between the United States and China, that it may, perhaps, be superfluous for me to reiterate assurances of our sorrow and abhorrence caused by the lawless and cruel outrages of which so many of your countrymen were unhappily made the victims in September last at Rock Springs, in the Territory of Wyoming, and which have been fully and truthfully recited in your note and in the accompanying documents.

Let me assure you, however, that I but speak the voice of honest and true American citizens throughout this country, and of the Government, founded on their will, when I denounce with feeling and indignation the bloody outrages and shocking wrongs which were there inflicted upon a body of your countrymen. There is nothing to extenuate such offenses against humanity and law, and not the least of the outrages upon the good name of the law was the wretched travesty of the forms of justice by a certain local officer acting as coroner, and pretending to give a legal account of the manner in which the victims met their death.

It appears from your statements and the reports transmitted in support thereof—the accuracy of which I do not question—that twenty-eight of your countrymen were killed outright at Rock Springs, fifteen were wounded, and many more driven from their homes, while the property of Chinese subjects to the value of upwards of \$147,000 was either destroyed or pillaged by the rioters.

My sense of humanity is no less aroused than yours to strong feelings of indignation and commiseration; but, besides this common sentiment, I feel with equal poignancy deep mortification that such a blot should have been cast upon the record of our Government of laws.

To aid in weighing the responsibility for these occurrences and to attain a clearer comprehension of the wrong, its origin, its progress, and its proper remedies, I will ask your attention to a few of the main admitted facts, as stated by yourself and as disclosed by the investigation, in which, as you justly say, your official agents were importantly assisted by the presence of officers of the United States Army specially assigned for that purpose.

The region in which this outbreak occurred is not within the borders of any State of the United States, but is within the limits of Wyoming Territory. You make the point that this Territory is directly under the control of the Federal Government, and that the acts of Territorial officers are in that degree those of the United States in the national capacity, not those of a distinct sovereignty. In this you approximately state a broad proposition, but do not accurately give it specific application. By its enabling and organic law the Territory of Wyoming enjoys local self-government, with a full equipment of officials in every



branch known to our republican forms, who are invested with full authority to maintain law and order and administer justice to all inhabitants. This Territorial government contains the usual framework of the other republics which combine to form this Union. It comprises an executive, a legislative, and a judicial branch. In the centers of population this government is as competent to discharge its administrative obligations as is the government of any State, and is responsible in the same way. Recent occurrences at Seattle, in the Territory of Washington, show this. Blood has been shed there lately under the authority of Territorial officials in successful defense and assertion of the right of certain of your countrymen to peaceable and law-observant residence.

The scene of the lamentable occurrences at Rock Springs was, however, remote from any center of population, and was marked by all the customary features of a newly and scantily settled locality. It consisted of a scattered assemblage of dwellings near a railway station and in the vicinity of some coal mines. The population was made up of men of all races, migratory in their habits; some engaged as laborers in mining, while others were employed in furnishing their supplies. Of formal recognized authority there were few representatives, and little or no attempt at organized police. It was, in short, a rude commencement of a community on the outposts of civilization, and, like all such beginnings, largely dependent for stability and order on the congruity of the elements of which it was composed.

To this remote and unprotected region your countrymen voluntarily resorted in large numbers. The attack upon them, as your note truly states, was made suddenly by a lawless band of about 150 armed men, who had given no previous intimation of their criminal intent. These men were discontented mining laborers, who had previously sought to induce the Chinese to join with them in a concerted strike for higher wages, and their overtures being rejected, they became angered on that account. This, I believe, is the only motive for the assault discernible and alleged in the reported evidence.

On neither side, among assailants or assailed, was there any representative of the Government of China or of the United States or of the Territory of Wyoming. There was, therefore, as there could be, no official insult or wrong. Whatever occurred was between private individuals wholly devoid of official character. It was, moreover, absolutely without national character. The domestic element of an ordinary civil disturbance was wanting. The assailants, equally with the assailed, were strangers in our land. In strict truth, the hospitality of a friendly country, no less than the rights of peaceable sojourners therein, may be said to have been outraged by a body of aliens, who, being permitted by the generosity of our laws to enter our borders and roam unchecked and at will throughout its jurisdiction, freely and profitably selecting their places of abode and finding occupation therein, have abused the privileges thus accorded to them and committed gross breaches of the public peace, suddenly and doubtless with the knowledge that nowhere within summons could any police organization be found in sufficient force to stay their criminal hands.

As you are aware, in the States of the Union, and also in the organized Territories and in the District of Columbia, where the Government of the nation has its Federal seat, the conservation of the public peace is committed to the local authorities, and crimes of violence involving the lives and safety of the property of individuals are held to be in violation of the peace, and in derogation of the local laws and jurisdiction. This violation constitutes the criminality which the police of the com-

munity seeks to prevent by all rational precautions and which the law is intended to punish.

Violent assaults and homicides in all newly-settled countries are very frequent and in proportion as the social elements are incongruous and the organization of police and judiciary is inchoate and imperfect.

The Government of the United States, opening its vast domain so freely to actual settlers, has extended the scope and power of the Constitution and laws over the Territories, by confiding to their local legislatures and government the duty and power of maintaining order, preserving the public peace, and punishing infractions thereof. In this respect the local authority and responsibility is in practice as self-contained in a Territory as in a State.

Moreover, this local authority and responsibility is applied to and affects all inhabitants alike. Before the law alien and native are equal. Your note, however, intimated, rather than argues, the existence of special and peculiar responsibility in respect of the Chinese in our midst. By argument and analogy you seek to show that a singular and exceptional obligation rests upon the United States toward Chinamen, correspondent and reciprocal to the contractual obligations of China in respect of citizens of the United States resorting thither.

An examination of the treaty stipulations becomes, therefore, most important towards an understanding of this question as stated by you. I am, of course, not unaware that your argument is essentially *ad hominem*; that it appeals to the sense of justice and fair play innate in the human breast; that it alleges that the Golden Rule "to do to others as they would have others do to them" is recited approvingly in Article XXIX of the treaty of 1858 between the two nations; and that it advances the assumption that "if the view" heretofore taken in an analogous case, "as to the obligation of the United States to make indemnity for injuries to private individuals from mob violence, should be insisted upon and adhered to by" the United States, "*China should in due reciprocity and international comity accept and practice the same principle.*" But, before this *ad hominem* argument can be duly weighed, we must know where the conventional argument actually places us, and the measure of protection and redress they actually and necessarily contemplate in the respective countries.

The conventional stipulations between the United States and China, to which you have referred, are, as you state, and as appears from their face, in no wise reciprocal. Under the respective system and nature of the two Governments they could not have been made reciprocal, nor were they intended to be so. The frankness which animates your note will, I think, lead you to agree with me, after considering the very different organizations and policies of the Governments of our respective countries which find frequent recognition in the terms of the sundry treaties between them, that the privileges and immunities of Chinese subjects now within the jurisdiction of the United States are vastly greater than ever were or are extended to American citizens who, under the restrictions of the treaties, are allowed to reside and transact business in China.

The several treaties of 1844, 1858, 1868, and 1880 are acts *in pari materia*, and no subsequent one of them abrogates those which are prior in date. There have been successive modifications, extensions, or substitutions as to special subjects, but always in express revival and renewal of pre-existing treaties; and, unless abrogated in express terms or repealed impliedly by the adoption of new and inconsistent features, they all remain in force. Upon those premises, and passing all the

personal and residential stipulations in review, we find restrictions expressly recognized throughout all the treaties which prove the inability to provide reciprocity, by reason of the totally variant basis on which the administrative functions and powers of the two countries are conducted.

Until 1868 no right of emigration of Chinese subjects to the United States was ever formally extended. None was, perhaps, needed, for, under our free, popular Government, and in the absence of any restrictive legislation, our territory was and is equally open to all aliens. It was altogether different in China. That country was closed to alien residence as by a wall. A specific right had to be conventionally created before this exclusion could be modified. To certain classes of citizens of the United States the treaty of 1844 granted carefully restricted rights to visit and sojourn in China, but in every one of the articles which treats of transient or permanent right of residence appears the qualification that it is for the purposes of trade.

Article I applies to our citizens "*resorting to China for the purposes of commerce.*"

Article III permits Americans to frequent certain specified ports, "*and to reside with their families and trade there.*"

Article IV relates to "*citizens of the United States doing business at the said*" ports.

Article V refers to "*citizens of the United States lawfully engaged in commerce.*" The important Article XIX, in regard to protection, speaks of "*citizens of the United States in China peaceably attending to their affairs,*" and by "*their affairs*" we may regard the "*lawful*" commerce elsewhere spoken of in the treaty as having been uppermost in the minds of the negotiators. Not merely was the purpose of their sojourn restricted, but citizens of the United States could not, under Article XVII, lawfully transgress certain residential limits. Even within those limits they were not free to select the sites for their "*houses and places of business, and also hospitals, churches, and cemeteries.*" The "*merchants*" of the United States were not to unreasonably insist on particular spots for those objects. Their residence was expressly conditioned on its being acceptable to the native inhabitants. The treaty says, and I am sure you will recognize the force of this provision:

The local authorities of the two Governments shall select in concert the sites for the foregoing object, *having due regard for the feelings of the people in the location thereof.*

And of that found at the close of the same Article XVII:

And in order to *the preservation of the public peace*, the local officers of the Government at each of the five ports shall, in concert with the consuls, define the limits beyond which it shall not be lawful for citizens of the United States to go.

The impracticability of maintaining efficient police protection in many portions of every widely extended domain was recognized by the Chinese Government when they expressly guarded against liability in the closing paragraph of Article XXIV of the treaty of 1844, as follows:

But if, by reason of the extent of territory and numerous population of China, it should in any case happen that the robbers cannot be apprehended or the property only in part recovered, then the law will take its course in regard to the local authorities, but the Chinese Government will not make indemnity for the goods lost.

Article XII of the treaty of 1858 is a substantial reaffirmation of these conditions. And it is to be noted that this treaty of 1858, while re-enacting many of the provisions of that of 1841, and passing over others, in no place intimates any enlargement of the residential class of unofficial American citizens to include others than merchants and their families within the narrow limits aforesaid. Ten years later we find the



Burlingame treaty opening with the significant declaration that the object of preceding treaties has been to give aliens certain restricted privileges of resort and residence in particular localities "for purposes of trade." Article V appears to extend the purposes of residence and resort by including "curiosity" as a motive; but even this extension is incidental to the enunciation of a principle, so that laws may be passed, not to guarantee "free migration and emigration" without limit, but to prohibit involuntary emigration—in other words, to suppress the labor and cooly traffic.

Article VII permits Americans to establish schools in China, and by implication includes American teachers in the classes admitted to restricted residence. In this, as in the other treaties, there is nothing to offset the idea of continued restriction, for Article VI, which gives to citizens of the United States visiting or residing in China "the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation," neither creates nor extends any right of alien sojourn, but rather confirms the announced determination of China to reserve all such rights not expressly granted.

To sum up, as the treaties stand, American citizens not of diplomatic or consular office may resort to China for trade, for curiosity, or as teachers, and then only to certain carefully limited localities, "having due regard to the feelings of the people in the location thereof." If the citizens or subjects of any other power should be granted other or greater privileges, then the citizens of the United States will have equal treatment.

On the other hand, Chinese subjects were at all times free between 1844 and 1868 to come to the United States and travel or sojourn therein, pursuing whatever lawful occupation they might see fit to engage in, without the need of treaty guarantee. The sixth article of the Burlingame treaty created no privilege in their behalf; it simply recorded an existing fact; for the Chinese were then as free to visit and sojourn in the United States as any other aliens were, and no law of regulation or inhibition was upon our statute-books.

There was, therefore, in all these years no reciprocity of treatment of the citizens or subjects of the one country within the jurisdiction of the other. There could not be, for the Chinese Government so restricted and hedged about its conceded and carefully limited privileges as to make reciprocity impossible on the part of the United States, unless taking the form of retaliation, which our system of laws makes impracticable.

The treaty of 1880 is absolutely unilateral. It conveys no hint of reciprocity. Its second article gives to Chinese teachers, students, merchants, and those actuated by motives of curiosity, and also to the Chinese laborers *then* (1880) in the United States, the right to "go and come of their own free will and accord," and, in addition to this, the same treatment as the citizens or subjects of the most favored nation. I refrain from asking you to point out to me any responsive position in any of our treaties with China which guarantees to American teachers, students, merchants, curiosity-seekers, and laborers the right to "go and come of their own free will and accord" throughout the length and breadth of China, "without regard to the feelings of the people" in the localities whither they may resort. I likewise refrain from invoking the *argumentum ad hominem*, as you have done, and from inquiring whether, in thus restricting the resort and residence of aliens, China has "done as she would be done by." I am content to assume that

these restrictions are of the nature of the case, and that China has sought to confine her duty in respect of aliens within such limits as might be convenient and practicable for its exercise, but always granting no more privilege than she chooses to grant, and conceding none whatever as of right, but only as matter of convention. And (although the point is not directly allied to the object-matter) you will permit me to remark that I find a pertinent illustration of the subjection of all privileges of alien sojourn in China to the mere volition of its Government, rather than to principles of international usage or comity, in the very narrow rights of visit and sojourn accorded by treaties even to the minister of the United States in the Chinese capital.

Passing from the question of reciprocity, whether in its sentimental or contractual aspects, to the question of the actual guarantee stipulated by the United States to Chinese of all classes, including laborers within their jurisdiction, and of the responsibilities of this Government in the matter, we find that in the treaty of 1868, by its sixth article, the United States for the first time established, as a treaty right, the therefore consuetudinary privilege of emigration of Chinese to this country. That article says :

Chinese subjects, visiting or residing in the United States, shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation.

This is renewed, with definition and limitation of the particular classes of Chinese to which it is applicable, in the second article of the treaty of 1880.

What is the substantial and full intent and meaning of these provisions as laid down in 1868, and again with special definition in 1880?

What "most favored nation" is to be taken as a test and for the purpose of comparing the rights of its citizens or subjects in the United States with those of China?

To constitute a special favor between nations it must exist in virtue of treaty or law, and be extended in terms to a particular nation as a nation. Applying this test, the citizens or subjects of no nation (unless it be those of China) have any special favor in the way of personal treatment shown them in the United States. All are treated alike, the subjects of the most powerful nations equally with others. An Englishman, a Frenchman, a German, a Russian, is neither more nor less favored than one of any other nationality.

Tried by this test, will it be denied that the public and local laws throughout the United States make no distinction or discrimination unfavorable to any man by reason of his Chinese nationality, except only those Federal laws regulating, limiting and suspending Chinese immigration which have been enacted in conformity with the express provisions of the treaty of 1880?

What are the duties of the Government of the United States under that treaty towards Chinese subjects within their jurisdiction?

The Chinese subjects now in the United States are certainly accorded all the rights, privileges, immunities, and exemptions which pertain to the citizens and subjects of the most favored nation, as is provided in the second article of the treaty. They are suffered to travel at will all over the United States, to engage in any lawful occupation, and to reside in any quarter which they may select, and there is no avenue to public justice or protection for their lives, their commercial contracts, or their property in any of its forms which is not equally open to them as to the citizens of our own country.

The same laws are administered by the same tribunals to Chinese subjects as to American citizens, save in one respect, wherein the Chinese alien is the more favored, since he has the right of option in selecting either a State or a Federal tribunal for the trial of his rights, which, in many cases is denied for residential causes to our own citizens; and he may even at will remove his cause from a State to a Federal court.

Thus, I find in the public press the announcement that Wing Hing, on behalf of himself and others, Chinese subjects, has lately brought suit in the United States circuit court to recover \$132,000 from the city of Eureka, Humboldt County, California, for loss of property by the action of a mob in February of last year. A citizen of that State would have been compelled to resort to a State tribunal, without appeal beyond the jurisdiction of the State, whereas the Chinese plaintiff in question can carry his case on appeal to the Supreme Court at Washington, thus divesting his rights from all adverse chance of local prejudice.

I think you will thus recognize, in the same frank spirit as animates your note, that none of the protection intended by the law of our own citizens is withheld from your countrymen, but that on the contrary, they possess noteworthy advantages in the choice of forum or the removal of their cause, of which many of our citizens are deprived.

The provision of an organized and in some cases privileged forum excludes the idea of direct recourse by the alien to other means of obtaining justice or redress. Your note argues that direct recourse to administrative or executive settlement is open to citizens of the United States in China, and instances are cited to show this. Surely, this rather proves that to the alien in China no such judicial forum is secured as to aliens in the United States.

The extraterritorial tribunals established for their own citizens or subjects by all the powers in treaty relations with China are, in principle and from the reason of the thing, incompetent to adjudicate questions touching the liability of China to aliens. In default of Chinese tribunals admittedly competent to take cognizance of the causes of foreigners, what alternative remains besides denial of justice or resort to diplomatic settlement?

The system of government which prevails in the United States, and which their public written Constitution had made well known to the Government of China at the time of our entering into treaties with that country, creates several departments, distinct in function, yet all tending to secure justice and to maintain law and order. These three distributive divisions of the sovereign powers of the American people are entirely independent of each other, and the fundamental principle of their several action is the non-interference of their respective functions. Thus, the duty of the Executive is to carry into force the laws enacted by the legislature, and his only warrant of authority to act in any case must be found in the Constitution, or in the laws passed in pursuance thereof by the co-ordinate legislative branch.

To the judicial branch is committed the administration of remedies for all wrongs, and its courts are open, with every aid they can devise, to secure publicity and impartiality in the administration of justice to every human being found within their jurisdiction. Providing thus a remedy for all individuals, whether many or few, rich or poor, and of whatever age, sex, race, or nationality, the question of liability for reparation or indemnity for losses to individuals, occurring in any way, must be settled by the judgments of the judicial branch, unless the act complained of has been committed under official authority in pursuance of governmental orders to that end.



The Government of the United States recognizes in the fullest sense the honorable obligation of its treaty stipulations, the duties of international amity, and the potentiality of justice and equity, not trammelled by technical rulings nor limited by statute. But among such obligations are not the reparation of injuries or the satisfaction by indemnity of wrongs inflicted by individuals upon other individuals in violation of the law of the land.

Such remedies must be pursued in the proper quarter and through the avenues of justice marked out for the reparation of such wrongs.

The doctrine of the non-liability of the United States for the acts of individuals committed in violation of its laws is clear as to acts of its own citizens, and *a fortiori* in respect of aliens who abuse the privilege accorded them of residence in our midst by breaking the public peace and infringing upon the rights of others, and it has been correctly and authoritatively laid down by my predecessors in office, to whose declarations in that behalf your note refers. To that doctrine the course of this Government furnishes no exception. And in this connection I venture to say that you labor under a misapprehension in citing as an exception the action of the United States, in 1850, in respect of the violence committed upon the Spanish consulate at New Orleans by a mob of irresponsible persons unknown to the Government, and with which no officer or agent of the United States was allied.

Nothing can be clearer than the enunciation of the doctrine of Government non-liability on that occasion. While denouncing such outrages as disgraceful and in criminal violation of law and order, it was emphatically denied that the acts in question created any obligation on the part of the United States, arising out of the good faith of nations toward each other, for the losses thus occasioned by and to individuals. Neither is there a parity between the Spanish incident of 1850 and the recent riot and massacre of the Chinese at Rock Springs. The essential feature of the first is wholly wanting in the second. The emblem of Spanish nationality had suffered an affront in a city of the United States. The special immunity attaching to the Spanish consular representative had been impaired and he subjected to personal indignity. The incident occurred at a time when the Spanish Government had just shown its regard for and good will toward the United States in pardoning certain American citizens who had participated in a hostile invasion of Cuba, and had incurred the condemnation of the authorities of that country. Recognizing the merciful action of the Queen of Spain in this regard, and as a responsive act of generosity and friendship tending toward good relationship, the President, while expressly denying the principle of national liability, recommended to Congress the appropriation of certain moneys to be paid to private individuals on account of the damages caused by riots at New Orleans and Key West, and to the Spanish consul at New Orleans a special indemnity as an official of Spain.

In one thing, however, the Spanish riots of 1850 and the Rock Springs massacre of 1884 are similar. Both grew out of alien animosities transplanted to our shores. The acts of the mob at Key West and New Orleans were largely, perhaps wholly, due to the resentment of disaffected Spanish subjects colonized at those points who were ready to abuse the sacred law of hospitality and make the land of their asylum the theater of attacks on the recognized sovereignty of Spain. At Rock Springs, as I have shown, the conflict sprang from labor questions between aliens. But this has no bearing on the question of the indemnity accorded to Spain, which was, as you indeed candidly admit in your

note, "a voluntary act of good will above and beyond the strict authorization of domestic law," and, I may add, of international law also.

A measure of international obligation rests on the United States under the third article of the treaty of 1880, which, in the event of Chinese laborers or others in the United States, "meet with ill treatment at the hands of other persons," requires the Government of the United States to "exert all its power" to devise measures for their protection and to secure to them the same "rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty."

That the power of the National Government is promptly and efficiently exercised whenever occasion unhappily arises therefor you have justly acknowledged, and it has been abundantly shown. The conditions under which this power may be applied are not always clear and are sometimes very difficult. Causes growing out of the peculiar characteristics and habits of the Chinese immigrants have induced them to segregate themselves from the rest of the residents and citizens of the United States, and to refuse to mingle with the mass of population as do the members of other nationalities. As a consequence race prejudice has been more excited against them, notably among aliens of other nationalities who are more directly brought into competition with the Chinese in those ruder fields of merely manual toil wherein our skilled native labor finds it unprofitable to engage. As the conflicting elements are less law-abiding and more ignorant the clash of their opposed interests is the fiercer. The question of labor competition is one that in the present condition of the world's history is causing convulsion in almost every quarter of the civilized world, and the United States, with all their breadth of territory and the advantages of local self-government by and for the people, are by no means exempt from the disorders to which the struggle for bread gives rise.

Moreover, the Chinese laborers voluntarily carry this principle of isolation and segregation into remote regions where law and authority are well known to be feeblest, and where conflicts of labor and prejudices of race may be precipitated on the slightest pretext and carried without check to limits beyond those possible where the powers of law may be better organized.

No measures can be devised to meet the problem which do not take this state of things into account, nor can they be effective if they do not contemplate the exercise of authority where it is competent to afford protection, for these measures have only for their object to secure to the Chinese the same rights as other foreigners of the most favored nation enjoy, not superior or special rights. For Chinese labor is not alone repugnant to the local communities; from many quarters of the land comes the same cry—the conflict of different alien laborers and the oppression of the weaker by the stronger. There can and should be no discrimination in applying punitive measures to all infractions of law. And so, too, with preventive measures. What will protect a Hungarian or Italian contract laborer in Pennsylvania or a Swedish "non-union" man in Ohio is equally applicable to a Chinaman on the Pacific coast.

I have traversed somewhat broader ground than is perhaps required by the propositions of your note of November 30, but I do so because your later note of February 15 appears to enlarge the area of discussion.

Reverting, however, to your appeal of November 30, which I understand to be a direct application to the sense of equity and justice of the United States for relief for the unfortunate victims of the carnage and

excesses of the mob at Rock Springs, I am compelled to state most distinctly that I should fail in my duty as representing the well-founded principles upon which rests the relation of this Government to its citizens, as well as to those who are not its citizens and yet are permitted to come and go freely within its jurisdiction, did I not deny emphatically all liability to indemnify individuals, of whatever race or country, for loss growing out of violations of our public law, and declare with equal emphasis that just and ample opportunity is given to all who suffer wrong and seek reparation through the channels of justice as conducted by the judicial branch of our Government.

Yet I am frank to say that the circumstances of the case now under consideration contain features which I am disposed to believe may induce the President to recommend to the Congress, not as under obligation of treaty or principle of international law, but solely from a sentiment of generosity and pity to an innocent and unfortunate body of men, subjects of a friendly power, who, being peaceably employed within our jurisdiction, were so shockingly outraged; that in view of the gross and shameful failure of the police authorities at Rock Springs, in Wyoming Territory, to keep the peace, or even to attempt to keep the peace, or to make proper efforts to uphold the law, or punish the criminals, or make compensation for the loss of property pillaged or destroyed, it may reasonably be a subject for the benevolent consideration of Congress whether, with the distinct understanding that no precedent is thereby created, or liability for want of proper enforcement of police jurisdiction in the Territories, they will not, *ex gratia*, grant pecuniary relief to the sufferers in the case now before us to the extent of the value of the property of which they were so outrageously deprived, to the grave discredit of republican institutions.

I trust you will recognize in what I have herein suggested the desire of the United States to carry into effect the "golden rule" recited in the treaty to which you have made reference, and that in such action you will perceive our wish and purpose to confirm and perpetuate the friendship and comity which, I trust, may long exist between our respective countries. You will, I am sure, agree that in good faith, and in compliance with their obligations, the Government of the United States is strenuously asserting its power to secure the protection of your countrymen within its jurisdiction.

Accept, &c.,

T. F. BAYARD.

## COLOMBIA.

No. 68.

*Mr. Bayard to Mr. Jacob.*

No. 20.]

DEPARTMENT OF STATE,  
Washington, April 12, 1886.

SIR: I transmit herewith copy of a letter addressed to me on the 30th ultimo by the president and secretary of the Star and Herald and La Estrella de Panama Company, a corporation organized under the statutes of the State of New York, touching the recent suspension of their journals by order of General Santo Domingo Vila. I also send you copy of an instruction on the subject addressed to Consul-General Adamson.



A copy of Mr. Adamson's dispatch, No. 182, of 15th September last, which is referred to in the Department's instruction to Mr. Adamson, is also inclosed for your information.

You will take an early occasion to speak to the secretary for foreign relations on the subject, representing to him the interest this Government necessarily feels in securing for its citizens and their property and lawful business ventures in Colombia all the protection due under the existing treaties, and especially in preventing their subjection to arbitrary and extra judicial penalties.

When you shall receive from Mr. Adamson the full text of the protest I have directed him to make, you will be in a position to judge what further representations may be necessary on your part to secure due respect for the obligations of the treaty in this particular.

I have, &c.,

T. F. BAYARD.

[Inclosure 1 in No. 20.]

*Mr. Adamson to Mr. Porter.*

No. 182.]

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
*Panama, September 15, 1885. (Received September 25.)*

SIR: \* \* \* On the 10th instant Mr. Samuel Boyd, one of the proprietors of the Star and Herald newspaper of this city, called to ask my advice, stating that the secretary of the civil and military chief of the state had notified them that in virtue of a circular issued by the President of the Republic—which circular had the force of a decree—all newspaper offices throughout the Republic were to be closed until after the meeting of a convention which was to be called to change national constitution.

The notice was given verbally, in order that the preparations for closing might be made before the official order was sent, at least I so understood it.

The Star and Herald Newspaper Company, limited, is organized under the laws of the State of New York and has its head office there.

The constitution of Colombia guarantees liberty to the press. Official announcement has been made here of the entire suppression of the rebellion throughout the whole Republic.

There does not appear, therefore, to be any valid reason for continuing the reign of martial law and the exercise of measures which are only usual in times when the nation is in great peril.

It was decided that the representative of the Star and Herald Company should visit the civil and military chief and try to have the order withheld. He made several fruitless efforts to do so, and finally decided to telegraph to the President of the Republic, setting forth what Dr. Nuñez well knew, that the paper had always supported him, &c.; that it was an American enterprise, and asking that it be exempted from the observance of decree. A few moments since the editor handed me a copy of the President's reply, which, translated into English, is as follows:

"President thanks and salutes Star. May continue to publish, considering the enterprise as industrial, principally as a demonstration of appreciation of the United States. Trust you will guard strict circumspection as to political subjects.

"NUÑEZ."

While I am glad to note this exemption of the Star and Herald, the order itself is noteworthy and ominous.

\* \* \* \* \*

I am, &c.,

THOMAS ADAMSON,  
*Consul-General.*

[Inclosure 2 in No. 20.]

*Messrs. Spies and Thomas to Mr. Bayard.*

OFFICE OF THE PANAMA STAR AND HERALD AND  
LA ESTRELLA DE PANAMA COMPANY, LIMITED,  
New York, March 30, 1886.

SIR: The Star and Herald and La Estrella de Panama Company, limited, incorporated under the laws of the State of New York, seven-tenths of the capital stock of which was paid for and is now the property of citizens of this State, publish at Panama the papers known as the Star and Herald, daily, the Star and Herald, weekly, and La Estrella de Panama, weekly. Our papers have been suspended by the dictatorial decrees of Governor Santo Domingo Vila, of Panama, United States of Colombia. No unfriendly act of ours warrants such a proceeding, the pretended grievance being that one of our subeditors did not publish certain unofficial matter. We have duly protested against such action, and we understand the United States consul-general at Panama has cabled you about this. We therefore respectfully request that you cable to the United States consul-general at Panama to take such action as you decide is proper to protect the interests of our company.

Trusting to receive your reply in due course, we are, sir, &c.,

FRANCIS SPIES,  
*President.*  
HENRY A. THOMAS,  
*Secretary.*

[Inclosure 3, in No. 20.]

*Mr. Porter to Mr. Adamson.*

No. 63.]

DEPARTMENT OF STATE,  
Washington, April 9, 1886.

SIR: Your telegram of the 29th ultimo, reporting the suppression of the newspaper called the Panama Star and Herald, which is owned and published by a New York corporation, was duly received.

I am also in receipt of a letter, dated the 30th ultimo, from the New York managers of the publishing company, stating that the papers published by it at Panama have been suspended by decree of General Santo Domingo Vila, that no unlawful or unfriendly act of the papers in question warrants such a proceeding, and that the pretended grievance on which the order of suspension rests is "that one of our subeditors did not publish certain unofficial matter."

The rights of the publishing company which issue the Star and Herald and La Estrella de Panama are the same as those of any citizen or corporation of the United States engaged in lawful business operations in Colombia, and the thirteenth article of the treaty of 1846 with New Granada expressly provides for the special protection of the citizens of the United States and their property against acts amounting, as does the act now protested against, to arbitrary confiscation by mere executive decree of the property of citizens of the United States.

I am not unmindful that your No. 182, of September 15,\* reported the issuance by the President of the Republic of a decree in form of a circular whereby "all newspaper offices throughout the Republic were to be closed until after the meeting of a convention which was to be called to change the national constitution," and narrated the understanding reached between the President of the Republic and the Star and Herald Company by which its papers might continue to be published, "considering the enterprise as industrial, principally as a demonstration of appreciation of the United States," with the intimation that the continuance was conditional on the paper's guarding "strict circumspection as to political subjects." There is, however, nothing in such an arrangement which would preclude the Government of the United States from insisting upon "special protection" of the lawful rights of American citizens secured by the thirteenth article of the treaty of 1846.

It is represented that no charge, even of want of "circumspection as to political subjects," has been made against the Star and Herald Company; and, were such a charge made, the arbitrary character of the suppression would not be thereby changed, for the alleged offender would be entitled under the treaty to an impartial hearing on a distinct accusation. If there be no formal charge, the occasion for the earnest protest of this Government is greater.

\* Inclosure, *supra*.

You are instructed to present to the local authority at Panama a formal protest in the name of the Government of the United States against the breach of the treaty and the injury to its citizens involved in the arbitrary suppression of the papers in question. Besides addressing this protest to the official by whose order the seizure and suppression of the papers were committed, you will forward a copy thereof to Minister Jacob at Bogota.

Your action will be fully reported to this Department.

I am, &c.,

JAMES D. PORTER,  
*Assistant Secretary.*

No. 69.

*Mr. Bayard to Mr. Jacob.*

No. 30.]

DEPARTMENT OF STATE,  
*Washington, May 13, 1886.*

SIR: The following telegram was sent to you on the 11th instant, viz:

Instruction of 12th April instructed you to support protest of consul against suspension *Star* and *Herald*. It is important that Colombian Government disavow act and rebuke General Santo Domingo, or assume full responsibility.

I am, &c.,

T. F. BAYARD.

No. 70.

*Mr. Bayard to Mr. Jacob.*

No. 31.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1886.*

SIR: My instruction (No. 20) of the 12th ultimo directed you to support, by representations to the Government of Colombia, the protest which Mr. Adamson had been instructed to make against the arbitrary suspension of the publication of *The Star* and *Herald* by General Ramon Santo Domingo Vila, the civil and military governor of the national department of Panama.

No information has been received up to the date of writing to indicate that the temperate and just remonstrance of this Government against such an arbitrary and unfriendly act toward the property and interest of citizens of the United States dwelling in Colombia under the double guarantee of the existing treaties and the intimate friendliness of the two Governments has been heeded. Mr. Adamson's later dispatches show a disposition on General Santo Domingo Vila's part to relegate consideration of the matter to the diplomatic channel. It may be assumed that you have already initiated such a discussion, although the interrupted and uncertain character of postal and telegraphic communications in Colombia leaves room to infer, from the fact that nothing has been heard from you since the 5th of April, that you may be wholly unaware of the transaction.

The term of sixty days, during which General Santo Domingo Vila assumed to suspend the paper, expires on the 27th instant. That period could not be allowed to pass without recording the formal remonstrance which this Government has been constrained to make to that of Colombia.



I accordingly sent you, on the 11th instant, a telegraphic instruction, as follows:

Instruction of 12th April instructed you to support protest of consul against suspension *Star* and *Herald*. It is important that Colombian Government disavow act and rebuke General Santo Domingo, or assume full responsibility.

It is now necessary to supplement that telegram by a fuller instruction.

The case is burdened by many extraneous facts which serve to confuse it; these I propose to eliminate.

A company of American citizens, employing their capital for the prosecution of a lawful enterprise, was organized on the 17th of December, 1883, according to the laws of the State of New York, under the title of "The Panama *Star* and *Herald* and the *Estrella de Panama* Company (limited)." The principal office of that company is in the city of New York. The business operations of the company are conducted at Panama through the agency there established, and consist in the publication of the two journals from which the company takes its name.

That company is entitled to the protection of the Government of the United States in all its lawful operations in the territory of a friendly State under the faith of treaties between the two countries whereby the contracting parties "promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse on the same terms which are usual and customary with the natives or citizens of the country; for which purpose they may either appear in proper person, or employ in the prosecution or defense of their rights such advocates, solicitors, notaries, agents, and factors as they may judge proper in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions or sentences of the tribunals, in all cases which may concern them, and likewise at the taking of all examinations and evidences which may be exhibited in the said trials."

The "special protection" so guaranteed is inconsistent with any arbitrary act of either Government whereby a citizen of the other may be deprived of his rights or injured in his property without due process of law.

This act of the civil and military governor of the national department of Panama constitutes such a deprivation and injury.

The lawfulness of the publication of the papers in question, at the time of their recent arbitrary suspension, is fully established—

(1) By the circumstance that during the recent enforcement, under martial law, of a decree suspending the publication of all periodicals, a special exception was made by President Nuñez in virtue of his office, in favor of the *Star* and *Herald*, which exception remained in force during the whole period of such general suspension.

(2) By the decree of General Santo Domingo Vila, of March 13, 1886, re-establishing the liberty of the press in the national territory of the department of Panama, and proclaiming the privilege of criticising freely all the official and administrative acts of the government of that department, subject only "to the restrictions imposed by the decrees and resolutions of the executive national power," from which latter, as we have seen, the *Star* and *Herald* had been previously relieved by the supreme executive.

I do not dwell on the special privilege conceded by President Nuñez,

lest it should be held that by relying upon an arbitrary *favor* by implication, I admit an equally arbitrary power to show *disfavor*. It is enough that the general suspension of the press of Colombia in July, 1885 (from which the *Star and Herald* was exempted), was solely justifiable by the existence of a civil war, and that the exigency having passed, the reign of constitutional law at once revived and had been proclaimed.

Liberty of the press having been restored, and the occasion for the exercise of extraordinary powers, which might be invoked by the supreme executive during the existence of civil war, having passed away, the *Star and Herald*, on the 26th of March last, found itself once more in undisturbed operation under the restored rule of law.

It is noticeable, in this relation, that, even were the lawful publication of the journal by American citizens subject to the irresponsible control of a military commander, which I do not for a moment admit, the supreme military authority of Colombia had expressly prohibited to General Santo Domingo Vila the exercise of such power. By a resolution of the war office at Bogota dated February 13, 1886, the President of the Colombian Republic ordered that no commander or military authority should thenceforth exercise other authority than that assigned to them by the code or prescribed by the Executive. This decree, which in terms suspended "the extraordinary faculties granted to the commanders and military authorities of the Republic on account of the exceptional state in which the country has been placed," excepted from its operation one military commander, and only one, "the citizen general commander-general of the column of the Atlantic," who was General Julian Rengifo, and not General Santo Domingo Vila. The bearing of this supreme executive order on the question is important, as showing that from the 13th of February last the exceptional state of the country, due to civil disturbances, was declared at an end, and that the theretofore extraordinary powers exercised by the civil and military governor of the national department of Panama were replaced, as to *military* authority, by the prescriptions of law under "the respective code," to which, of course, his *civil* authority was always subject.

On the 26th of March, therefore, when the occurrence now complained of took place, the publication of the *Star and Herald* was within the purview of municipal law, as well as under the special protection guaranteed by the treaty of 1846, and any infraction of law charged against the publishers was cognizable only by "the respective code."

It is not pretended that the publishers infringed any law or regulation.

The complaint against them, as disclosed in the published correspondence, is merely this: That, on the 25th of March, General Santo Domingo Vila addressed a personal note to the editor of the Spanish section of the *Star and Herald*, suggesting that if he (the editor) thought fit and deemed it expedient (the Spanish words are "*si lo tiene á bien y lo considera conducente*") he might publish in the *Star and Herald* certain inclosed copies of telegrams, and that the editor so addressed, in the exercise of the discretion so explicitly left to him, did not publish the telegrams in question.

Had this been alleged as a reason for suspension, even in the midst of civil war, and at a time when the laws are silent under the sway of arms, its sufficiency could not be acquiesced in. In a time of proclaimed peace, when the restoration of the rule of law had been announced, the frivolousness of the allegation becomes even more conspicuous.

Nevertheless, apparently acting in sheer caprice, and although ex-

pressly inhibited by supreme executive order from exercising any "extraordinary faculties" outside of the rule of law, General Santo Domingo Vila, on the 26th of March, announced the summary suspension of the journal, and in his order recites, as the only specific charge against the publishers—

That recently this newspaper has refused to publish documents of importance connected with the policy referred to—

*I. e.*, the policy of reform in the administration of the affairs of the department—

without even having the courtesy to answer the polite private note [*esquala*] which accompanied them.

It is unnecessary to enforce the point that the act complained of was in no sense an infraction of law. That is abundantly proved by the letter of General Santo Domingo Vila to the subeditor of the journal, and by the admission, in the order of suspension, that the general's communication was a private and personal note.

It may also be unnecessary to advert to the character of the publication requested by General Santo Domingo Vila, further than to say that the telegram, to which he thus sought to give unofficial publicity as a current item of news, was, in plain terms, a charge of smuggling, preferred against a brother officer, General Montoya. Had that telegram been officially communicated to the publishers of the journal by the civil and military governor of the national department of Panama, it would unquestionably have found a place in the official section of the journal. But having been transmitted unofficially by General Santo Domingo Vila to the subeditor, the right of the latter to obey the dictates of discretion and common prudence with respect to the publication of a news item, which might have been held libelous in a court of justice, is evident, even without the very explicit reserve of discretion assured to him by the general's private note.

This incident is only indicated as tending to throw light on the motives of General Santo Domingo Vila in arbitrarily suspending the paper.

I am aware that in the said order of suspension it is recited—

That recently orders have been received from the executive national power at Bogota to suspend the publication and circulation of the said paper.

Of this there is no evidence beyond the recital quoted, and no intimation of any lawful charge on which to found such executive order of suspension in time of proclaimed peace and against the provisions of the constitution of Colombia. It is wholly inconsistent with the friendliness continuously shown by the journal to the titular Government of the Republic, and the repeated assurances of good-will and favor of the Government to the paper. And, even were the fact established, it would merely transfer to the executive national power of Colombia the responsibility of wanton injury to the rights and property of American citizens.

The Government of the United States has shown every consideration in this matter towards the civil and military governor of the national department of Panama. It has afforded him, through the temperate protest which, under its direction, was addressed to him by the United States consul-general at Panama, every opportunity to reverse his illegal action and repair the wrong occasioned thereby. General Santo Domingo Vila, I may be permitted to say, has not fitly responded. His answer is equivalent to a denial of the consul-general's right to intervene, and the relegation of the discussion to the national Government at Bogota.

The relations of the United States toward Colombia are so intimate and friendly, and of such importance, that I would gladly have avoided



a discussion of the matter between the two Governments. But no other course is open. Weeks have passed in the fruitless effort to obtain the simple justice which was naturally to be expected from one who, as the former honored representative of the Colombian Republic near this Government, was presumed to be fully aware of its amity toward Colombia. It is not known that any good results have followed your kindly intervention in drawing the attention of the Colombian Government to the consul-general's protest. The time fixed for the duration of the suspension of the *Star and Herald* is drawing to a close, and I am reluctantly constrained to believe it possible that it will be allowed to pass without a formal renunciation of the wrongful act.

Further attempts by the Government of the United States to consider the question with the civil and military government of the national department of Panama would be inconsistent with self-respect, and also disrespectful toward a friendly Government, with whom alone this Government should deal.

It may be that before the receipt of this instruction by you, the Government of the Republic will have seen its way to dispose of this matter in accordance with international comity.

Should this not be the case, you will ask of the Colombian Government either the frank disavowal of the act of its agent, and the stern rebuke and punishment of General Santo Domingo Vila for this reprehensible excess of authority, or the assumption of responsibility for his acts.

It may be premature to consider the question remaining should the Government of the Republic disavow the acts of its agent, as it is reasonable to believe it will. Upon its answer must depend any further consideration of the scope of his agency, in its private or public aspects. It will, however, be well for you to bear in mind that the doctrine of personal responsibility of an agent for acts not within his delegated power and authority as an agent, may be qualified by the fact of the agency being a public one, such as that of a military commander to whom the employment of force is necessarily intrusted, to the end that he may execute his orders, and that the abuse or misuse of force by an agent expressly clothed, by reason of his office, with the ability to employ it, may not exempt the Government that employs him from responsibility for the results of intrusting him with so potent an instrumentality.

You will communicate this dispatch to the Colombian secretary for foreign affairs by reading it to him, and should he so desire, leaving with him a copy, unless the matter shall have been satisfactorily disposed of before this reaches you.

It is not deemed necessary to burden this communication with copies of papers and documents already in the possession of, or readily accessible to, the Colombian Government and pertinent to the case.

I am, &c.,

T. F. BAYARD.

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No. 71.

*Mr. King to Mr. Bayard.*

No. 41.]

LEGATION OF THE UNITED STATES,  
Bogota, June 26, 1886. (Received July 21.)

SIR: I have the honor to acknowledge the receipt of your No. 30 to Mr. Jacob, dated May 13, 1886, repeating your telegram of May 11 in regard to suspension of *Star and Herald*.

I have also the honor to acknowledge your No. 31 of May 15, 1886, addressed to Mr. Jacob, in which you review the action of General Santo Domingo Vila in suspending the Star and Herald, and direct your dispatch to be read to the Colombian secretary of foreign relations, and in certain events to furnish him with copy of same. In compliance with your directions I have read your dispatch to Mr. Secretary Restrepo, and at his request have provided him with a copy. After listening to your dispatch with evident concern, he submitted to me the telegraphic correspondence that had grown out of the controversy between his Government and General Vila, and requested me to mention it in my communication to you. In regard to the alleged authority from the "executive national power at Bogota," referred to in the order of suspension, the secretary explained that President Nuñez on the 6th of March, 1886, telegraphed to General Vila to warn the Star and Herald to desist from censure, and if it persisted to suppress it; that on April 2d following, he, the secretary, hearing of the suspension, telegraphed to General Vila expostulating with him upon the severity of the sentence and requesting, on account of the good will felt toward the United States, that he would reduce the term of suspension from sixty to twenty days; that on April 5th following General Vila replied that he would commit no act to disturb the friendly relations existing between the two Governments; that feeling reassured by this pacific message, the secretary dismissed the subject from his mind until May 17th following, when being informed of General Vila's unrelenting rigor, he telegraphed the censure of his Government and directed him peremptorily to re-establish the Star and Herald; that General Vila thereupon requested the Government here to nominate his successor; that in reply to General Vila the President and secretary of interior, on the 24th May, 1886, commanded General Vila to re-establish the Star and Herald, or in default thereof to surrender his office into the hands of General Rengifo; that on the day following General Vila telegraphed the President that the full term of the Star and Herald's suspension had just expired, and that he therewith tendered his resignation as civil and military governor; and that the Government accepted the resignation so tendered and appointed General Posada to fill the vacancy. \* \* \*

I have, &c.,

V. O. KING.

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No. 72.

*Mr. King to Mr. Bayard.*

No. 81.]

LEGATION OF THE UNITED STATES,  
Bogota, October 22, 1886. (Received November 23.)

SIR: In previous dispatches I have referred to the new constitution adopted by this country under the name of "Republic of Colombia;" and I have announced my purpose to make and transmit to you an English translation of it. I have completed the work, and as the result I now have the honor to inclose herein the promised version in printed form, of which I send one copy, together with three copies of the original text. While the production cannot lay claim to much literary merit it is entitled to be considered a faithful rendition of the original, inasmuch as it has been approved by the official translator and adopted and ordered printed by this Government.

I inclose a copy of a note from the minister of foreign relations recognizing my services in this behalf.

The present constitution and its immediate predecessor stand in the relation of antipodes to each other, and in the provisions they respectively make for the regulation of the body politic they seem to have reached the extreme point of popular government in the oscillation of the political pendulum.

Under the terms of the old constitution the States composing the Union were vested with absolute and unqualified sovereignty. From them emanated all authority, and without their assent none could be exercised by the federal functionaries of the nation. They could, by a majority of their number, nullify any act of their federal Congress, and they could, for any purpose and under any pretext, precipitate a revolution within the borders of their respective sovereignties without interference from the General Government; in fact, the latter was required to concede a formal recognition to any *de facto* State organization that could maintain itself by arms upon the ruins of its predecessor. The power to celebrate treaties with foreign nations, and to negotiate contracts of a national character with foreign citizens or subjects was surrendered to the General Government, but the power was unsubstantial and illusory, for the dominion exercised by the States enabled them to emasculate, if not utterly destroy, its efficiency and to defeat the performance of any engagement entered into under its authority. Such, indeed, were the methods of administration under that constitution, that the form of Government at the time was an anomaly in the history of nations, and was well described by a late minister to this legation as "an organized anarchy."

The new constitution is, *per contra*, an embodiment of precepts enjoining the obedience and submission of the former sovereigns to the will of their central agent, and bestowing all the prerogatives of government upon an oligarchy of select individuals. It abolishes the States, and substitutes in their stead a system of departments to be conducted under a provincial form of government, and administered by executive officers appointed by and responsible to the President of the nation; it centralizes the national Government, and endows it with almost unlimited powers; it creates a Congress, the members of whose upper house cease to be plenipotentiaries, as under the former instrument, and whose representatives in the lower house represent neither section nor constituency, but the whole nation as an indivisible entity. It establishes an exclusively federal judiciary in all the departments. It enlarges the executive power of the nation. It warrants the arbitrary arrest and imprisonment of citizens suspected of political offenses. It limits and qualifies the right of suffrage. It restricts the liberty of the press. It increases the number of national offices. It extends the terms of office. It creates a standing army. It permits monopolies. It authorizes capital punishment. It unites church and state to the extent of adopting the Roman Catholic creed as that of the people, of placing it under the special protection of the Government, and of requiring its tenets to be taught in the public schools. It recognizes the equality of the ecclesiastical with the political powers of the state, and authorizes the Government to negotiate conventions with the Holy Apostolic See for the purpose of establishing the relations to be maintained between them; and it exempts the Catholic clergy and the military from civil jurisdiction.



Among the conspicuous provisions that were incorporated in the old constitution and that are omitted from the new may be noted:

(1) That which prohibited the conveyance of any part of the national territory to a foreign power; and

(2) That which interdicted the requirement of passports in time of peace from persons traveling through or out of the country.

These are the principal differences between the constitution of 1886 and that of 1863, and all these changes have been wrought by the conservative party, now in power.

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As neither of the modes pointed out by the old constitution was pursued in the process of making a new one, \* \* \* I conclude that a brief statement of the circumstances attending it may not be devoid of interest.

At the close of the late revolution President Nuñez, whose term of office had then nearly expired and whose re-election was forbidden by the constitution then in force, issued a proclamation annulling that instrument and declaring an interregnum in the Government. He appointed provisional governors in all of the nine States, and directed them to nominate two delegates each, who, together, should constitute a national council to convene at the capital. On assembling in November, 1885, the first acts of this body were to ratify the conduct of Dr. Nuñez and to confirm his appointments. It then elected him as chief magistrate of the nation for the term of six years, and proceeded to formulate a *projet* of fundamental principles for a new constitution to be submitted to the corporate vote of the municipal boards of aldermen throughout the country. Upon canvassing the returns the council declared a majority of such votes to be in favor of the new constitution, and thereupon proceeded to elaborate the instrument that is herewith submitted, which, from the number, fullness, and precision of the precepts enunciated, has left but little of the machinery to be devised by the executive or legislative power. At the conclusion of these labors the national council resolved itself into a Congress for legislative purposes, and it will continue to serve in that capacity until the first constitutional Congress assembles, on the 20th July, 1888.

\* \* \* \* \*

I have, &c.,

V. O. KING.

[Inclosure 1 in No. 81.—Translation.]

*Mr. Restrepo to Mr. King.*

REPUBLIC OF COLUMBIA, MINISTRY FOREIGN RELATIONS,  
*Bogotá, October 20, 1886.*

SIR: It is as much my pleasure as it is my duty to express to you the gratitude of my Government for the important service which you have rendered to it by contributing in a most essential degree, together with Mr. Arthur Malo O'Leary, to the translation of the national constitution into English.

Your work will greatly contribute to facilitate the relations between this Republic and the civilized nations which speak that language.

I renew, &c.,

VICENTE RESTREPO.

[Inclosure 2, in No. 81.]

In the name of God, the supreme source of all authority, the delegates of the Colombian States of Antioquia, Bolivar, Boyacá, Cauca, Cundinamarca, Magdalena, Panama, Santander, and Tolima, in national constituent convention assembled; in view of the approval given by the municipalities of Colombia to the bases of a constitution issued on the first day of December, 1885; and with the object of strengthening the national unity and of insuring the benefits to be derived from justice, liberty, and peace, have agreed to decree, and do hereby decree the following:

## POLITICAL CONSTITUTION OF COLOMBIA.

### TITLE I.—*Of the nation and territory.*

The Nation—Sovereignty—Limits—General territorial division—Mode of altering it—Other divisions.

#### ARTICLE 1.

The Colombian nation is hereby constituted a centralized Republic.

#### ARTICLE 2.

Sovereignty is vested essentially and exclusively in the nation, from which shall proceed all public powers, to be exercised within the limits prescribed by this constitution.

#### ARTICLE 3.

The boundaries of the Republic are the same as those that in 1810 separated the vice-royalty of New Granada from the captaincies-general of Venezuela and Guatemala, from the vice-royalty of Peru and the Portuguese possessions of Brazil, and respecting Ecuador, they shall be provisionally the same as those designated in the treaty of July 9, 1856.

The lines dividing Colombia from contiguous nations shall be definitely fixed by public treaties, which may be negotiated without reference to the principle of *uti possidetis* recognized in 1810.

#### ARTICLE 4.

The territory, together with the public property therein contained, belong exclusively to the nation.

The divisions that composed the Colombia Union, and were denominated as states and national territories, shall continue to be parts of the territory of the Republic of Colombia, and shall respectively retain their present dimensions under the name of departments.

All doubtful dividing lines shall be determined by commissions of surveyors to be appointed by the senate.

The ancient national territories are hereby incorporated with the divisions to which they originally belonged.

#### ARTICLE 5.

The law may decree the formation of new departments to be created out of those already existing, when the same may have been asked for by four-fifths of the municipal councils in the territory to be embraced in the new department, subject always to the following conditions:

(1) That the new department shall contain at least two hundred thousand inhabitants.

(2) That the department or departments out of which the new one is to be created shall each retain at least two hundred and fifty thousand inhabitants.

(3) That the law creating the new department shall be enacted by two successive regular legislatures.

#### ARTICLE 6.

The existing limits of the departments shall not be changed except by a law enacted in the manner directed in the last clause of the preceding article.

Congress may, by a law enacted in the usual manner, and without the above-mentioned conditions, separate the territories referred to in Article 4 and the islands from the departments in which they are now incorporated or to which they belonged, and dispose of them as it may deem proper.

## ARTICLE 7.

Besides the general division of territory into departments, each of the latter shall be subdivided in the interest of the public service.

The several divisions relating to finance, military matters, and public education shall be separate and distinct from the general division.

TITLE II.—*Of the inhabitants, native and foreign.*

*Status of Colombian citizens.*—Defined—How it is forfeited—General obligations of natives and foreigners—Domiciled foreigners—Reciprocal limitations of the rights conferred by naturalization. *Citizenship.*—Definition thereof—How forfeited—How suspended—Inherent prerogatives of citizenship.

## ARTICLE 8.

The following persons are declared to be Colombians:

(1) *By birth.*—Those who are natives of Colombia under either of the following conditions: That the father or the mother was a native Colombian, or that, being the children of foreigners, they are domiciled in the Republic. The legitimate children of a Colombian father and mother who were born in a foreign country, and shall have afterwards fixed their domicile in the Republic, are considered Colombian by birth for the purposes indicated in the laws that determine this condition.

(2) *By origin or vicinity* (Spanish-American birth).—Those who are born in foreign countries of a Colombian father or mother and are domiciled in the Republic; and all Spanish-Americans who may have appeared before the municipal authorities of the place in which they reside and register themselves as Colombians.

(3) *By adoption.*—Those foreigners who apply for and obtain letters of naturalization.

## ARTICLE 9.

The status of the Colombian citizen is forfeited by his obtaining letters of naturalization in a foreign country, fixing therein his domicile, and he may recover it under laws enacted for that purpose.

## ARTICLE 10.

It is the duty of all citizens and foreigners in Colombia to live in submission to the constitution and the laws, and to respect and obey the authorities.

## ARTICLE 11.

Foreigners shall enjoy in Colombia the same rights that are conceded to Colombians by the laws of the nation to which the foreigners belong, except those which are stipulated in public treaties.

## ARTICLE 12.

The law shall define the condition, as well as the rights and obligations of all resident foreigners.

## ARTICLE 13.

Any Colombian, although he may have lost his citizenship, who may be taken in arms against Colombia shall be tried and punished as a traitor.

Naturalized foreigners and those residing in Colombia shall not be compelled to bear arms against the country of their birth.

## ARTICLE 14.

Societies and corporations that in Colombia are recognized as artificial persons shall not enjoy any other rights than those accorded to natural persons who are Colombians.

## ARTICLE 15.

All male Colombians shall be held to be citizens who have attained the age of twenty-one years, and who exercise a profession, art or office, or who follow a lawful occupation or other legitimate and ostensible means of support.



## ARTICLE 16.

Citizenship is lost when nationality is lost. The quality of citizen shall also be forfeited in either of the following cases, when judicially declared:

- (1) When he enters the service of a nation at war with Colombia.
- (2) When he shall have belonged to a rebellious faction against the Government of a friendly nation.
- (3) When he shall have been condemned to suffer corporeal punishment.
- (4) When he shall have been removed from public office, by means of a criminal procedure or of an act affecting his civil responsibility.
- (5) When he shall have committed acts of violence, falsehood or corruption in elections.

All persons who may have lost their citizenship may petition the Senate for restoration.

## ARTICLE 17.

The exercise of the rights of citizenship is suspended: For notorious mental alienation; for judicial interdiction; for habitual drunkenness; for charges pending criminal proceedings and after the issue of a warrant of arrest.

## ARTICLE 18.

The quality of citizenship is an indispensable condition precedent to the exercise of the right of voting, and of holding any public office of authority or power.

TITLE III.—*Of civil rights and social guarantees.*

General principles—Liberty, security and privilege—Property—Religion, education, printing—Correspondence—Industry and occupations—Petition, assemblage, association—Provisions concerning artificial persons and civil condition of persons—Responsibility for violation of guarantees. Incorporation of this title in the civil code.

## ARTICLE 19.

The authorities of this Republic are established in order to protect all persons residing in Colombia in their lives, honor, and property, and to secure the mutual observance of natural rights, preventing and punishing crimes.

## ARTICLE 20.

Private persons are not answerable to the authorities except for violations of the constitution or the laws. Public officers are answerable in the same manner, and also for exceeding their powers and for failing to execute them.

## ARTICLE 21.

In case of a manifest violation of any constitutional provision to the injury of any person, the superior order shall not exempt from responsibility the agent who may execute it.

The military in actual service shall not be held to this responsibility. With respect to them, the superior who gives the order shall be alone responsible.

## ARTICLE 22.

There shall be no slaves in Colombia.

Any person being a slave who shall enter the territory of the Republic shall be free.

## ARTICLE 23.

No one shall be molested in his person or family, nor imprisoned, nor arrested, nor shall his domicile be searched unless upon a written warrant from competent authority, issued with all legal formalities and for an offense previously defined by law.

## ARTICLE 24.

He who is taken in the actual commission of an offense, may be arrested and carried before the judge by any person. If the police pursue him and he take refuge in his own dwelling, they may enter therein for the purpose of apprehending him, and if he seek asylum in the house of another person, requisition for him should be previously made of the owner or tenant thereof.

## ARTICLE 25.

No person shall be compelled to testify in criminal or police proceedings against himself or against his relations within the fourth degree of consanguinity or the second degree of affinity.

## ARTICLE 26.

No person shall be prosecuted except in conformity with laws enacted prior to the commission of the offense with which he is charged, before a competent tribunal and all the forms of law in each case provided.

It all criminal matters the accused shall enjoy the benefit of the laws that most leniently affect the charge against him, although enacted after the commission of the offense.

## ARTICLE 27.

Punishments may be inflicted without previous trial and without a strict observance of the forms of law, notwithstanding the preceding provision, by the following officers:

(1) By those officers exercising authority or jurisdiction who have the power to punish with fine or imprisonment for injury or disrespect towards them in the discharge of their official duties.

(2) By military chiefs, who can inflict instant punishment in order to subdue a military insubordination or mutiny, or to maintain discipline in presence of the enemy.

(3) Captains of boats, who, not being in port, can exercise the same authority in order to prevent the commission of crime on board.

## ARTICLE 28.

Even in time of war, no person shall be punished *ex post facto*, but only according to a law, order, or a decree in which the act shall have been previously prohibited and the punishment prescribed for its commission.

This provision shall not prevent that even in time of peace, there being serious reasons to fear a disturbance of public order, such persons may be arrested and retained, upon the order of the Government and the previous judgment of the ministers, against whom are serious suspicions that they have attempted to commit a crime against the public peace.

## ARTICLE 29.

The legislature shall only prescribe death as a punishment for the gravest offenses, the following crimes, juridically proven, to wit: treason to one's country in a foreign war, parricide, assassination, arson, assault in a gang of malefactors, piracy, and certain military crimes defined by the military laws.

At no time shall the death penalty be inflicted except as a punishment for offenses embraced in this article.

## ARTICLE 30.

There shall be no death penalty for political offenses. The law shall define them.

## ARTICLE 31.

Rights acquired by natural and artificial persons under a just title and according to the civil law shall not be disavowed nor violated by laws posteriorly enacted. When in the application of a law enacted for the public welfare there should result a conflict between private rights and a recognized necessity for the same law, private interests shall yield to public interests. But for all expropriations that may have been compelled there shall be required full indemnity in accordance with the following article.

## ARTICLE 32.

In time of peace no person shall be deprived of his property in whole or in part except as a punishment, or judicial compulsion, or indemnity, or general contribution, in accordance with law.

For grave reasons of public utility, to be defined by the legislature, forcible alienation of property may take place, by means of a judicial mandate, and the owner of the property shall be indemnified for its value before the expropriation is confirmed.

## ARTICLE 33.

In case of war and solely for the purpose of effecting the restoration of public order, the necessity for expropriation may be decreed by authorities not invested with judicial power and without previous indemnification.

In the above expressed case immovable property can only be temporarily occupied, either to meet the necessities of the war, or to provide for it with the revenues of the occupied property, as a pecuniary penalty imposed upon the owners according to the laws.

The nation shall always be responsible for the expropriations made by the Government or its agents.

## ARTICLE 34.

The punishment of confiscation shall not be inflicted.

## ARTICLE 35.

Inventions and literary compositions shall be protected like movable property during the life-time of the author and for eighty years thereafter, by means of formalities prescribed by law.

This same guarantee is offered to the owners of works published in countries where the Spanish language is spoken, provided that the respective countries reciprocate the provision in their legislation without the necessity of their declaring it through international treaties.

## ARTICLE 36.

The purpose of donations *inter vivos* or by testament made in conformity with law and for objects of charity or public education, shall not be diverted nor modified by the legislature.

## ARTICLE 37.

In Colombia there shall not be real estate that may not be freely transferred, nor shall there be any irredeemable obligations.

## ARTICLE 38.

The Roman Catholic Apostolic Religion shall be that of the nation. The public authorities shall protect it and cause it to be respected as an essential element of social order. It is understood that the Catholic church is not and shall not be an established church, and it shall preserve its independence.

## ARTICLE 39.

No person shall be molested on account of his religious opinions, nor compelled by the authorities to profess tenets nor to observe practices contrary to his convictions.

## ARTICLE 40.

The exercise of all forms of worship, not contrary to Christian morals nor to the laws, is permitted.

All acts contrary to Christian morals or subversive of public order that may be performed upon the occasion of, or as a pretext for, the exercise of religious worship, shall be subject to punishment by law.

## ARTICLE 41.

Public education shall be organized and directed in accordance with the Catholic religion.

Primary instruction paid for out of the public funds shall be gratuitous and not compulsory.

## ARTICLE 42.

The press shall be free in time of peace; but it shall be responsible, under the laws, for injuries to personal honor or for disturbances of social order or public tranquillity.

No periodical publication shall receive any pecuniary aid from either Governments or from foreign companies, without the permission of this Government.



## ARTICLE 43.

All correspondence confided to telegraph companies and post-offices shall be inviolable. Letters and private papers shall not be intercepted nor examined, except by authority, under the order of a competent officer in such cases and with such formalities as may be determined by law, and for the sole purpose of procuring testimony in judicial investigations. The circulation of newspapers through the post-offices may be taxed, but shall never be prohibited in time of peace.

## ARTICLE 44.

Any person may pursue any honest trade or occupation without the necessity of a membership with any guild or other association.

The authorities shall investigate all industries and professions in their relation to morals, safety, and public health.

The law may exact proofs of competency for the practice of the medical profession and its several branches.

## ARTICLE 45.

All persons shall have the right to present respectful petitions to the authorities, whether for reasons of public or private interests, or for the purpose of obtaining prompt action.

## ARTICLE 46.

All classes of persons may meet in peaceable assemblies. The authorities may disperse all assemblies that degenerate in disorder or tumult, or that obstruct the public roads.

## ARTICLE 47.

The formation of public or private companies or associations that are not contrary to morality or legal order shall be permitted.

All popular political organizations of a permanent character are forbidden.

All religious associations, in order that they may enjoy the protection of the laws, shall present to the civil authorities their authorization issued by their respective ecclesiastical superiors.

## ARTICLE 48.

The Government alone shall import, manufacture, and own arms and munitions of war.

No person shall be permitted to carry arms in towns without permission from the authorities. This permission shall in no case be given to persons attending political meetings, or elections, or sessions of assemblies or public corporations, whether they participate therein or are present as spectators only.

## ARTICLE 49.

Legitimate and public corporations shall be recognized as artificial persons, and may execute, in virtue thereof, all civil acts and enjoy all the guarantees assured by this title, under such general limitations as may be imposed by the laws for reasons of the common good.

## ARTICLE 50.

The laws shall determine the civil status of all persons, and shall prescribe their respective rights and obligations.

## ARTICLE 51.

The laws shall determine the responsibility to be incurred by public officers of all classes who invade the rights guaranteed by this title.

## ARTICLE 52.

The provisions contained in the present title shall be incorporated in the civil code as a preliminary title, and shall not be altered unless by an act amending the constitution.

TITLE IV.—*Of the relations between church and state.*

General rights of the church—Incompatibility between ecclesiastical and civil functions—Exemptions—Authorization of the Government to celebrate conventions with the Holy See.

## ARTICLE 53.

The Catholic Church shall have power to administer freely in Colombia its interior affairs and to exercise acts of spiritual authority and of ecclesiastical jurisdiction without authorization from the civil power; and, as an artificial person, represented in each diocese by its respective legitimate prelate, shall have the right to perform civil acts in virtue of rights recognized by the present constitution.

## ARTICLE 54.

Priestly functions are incompatible with those of public political office. Catholic priests may, nevertheless, be employed in the works of public education or charity.

## ARTICLE 55.

Edifices intended for Catholic worship, seminaries for religious instruction, and the residence of bishops and parish priests shall not be taxed for contributions nor occupied for other purpose than that for which they were destined.

## ARTICLE 56.

The Government shall have power to negotiate agreements with the Holy Apostolic See with a view to the adjustment of pending questions, and to define and establish the relations between the civil and ecclesiastical powers.

TITLE V.—*Of national powers and the public service.*

Limitation of powers—Legislative power—The executive—The judiciary—General rules regarding the public service.

## ARTICLE 57.

All public powers shall be limited, and they shall independently exercise their respective functions.

## ARTICLE 58.

The law-making power shall be vested in Congress. The Congress shall be composed of a senate and a house of representatives.

## ARTICLE 59.

The President of the Republic is the chief of the executive power, and he shall exercise it with the indispensable co-operation of the ministers. The President and the ministers, and in any particular case the President, together with the minister specially charged therewith, shall constitute the Government.

## ARTICLE 60.

The judicial power shall be exercised by a supreme court, by superior district tribunals, and by such other tribunals and inferior courts as may be established by law. The senate shall exercise certain judicial powers.

## ARTICLE 61.

No person or corporation shall, in time of peace, exercise at the same time political or civil and judicial or military authority.

## ARTICLE 62.

The law shall determine all cases in which arises incompatibility of functions; the cases relating to the responsibility of public officers and the manner of making it effective; the qualifications and necessary antecedents requisite for the exercise of certain employments in cases not provided for by the constitution; the condition of promotion and retirement on pension; and the series or class of civil or military services that shall be entitled to pensions from the public treasury.

## ARTICLE 63.

There shall be no office in Colombia whose duties are not defined by law or regulation.

## ARTICLE 64.

No person shall receive two salaries from the public treasury, except in special cases determined by law.

## ARTICLE 65.

No public officer shall enter upon the discharge of his office until he shall have sworn to sustain and defend the constitution and to perform the duties of his office.

## ARTICLE 66.

No Colombian who is in the service of Colombia shall, without the permission of his Government, receive from any foreign government any office or gift under penalty of forfeiting his employment.

## ARTICLE 67.

No Colombian shall receive from a foreign government any employment or commission near that of Colombia without having previously obtained the necessary authorization from the latter.

TITLE VI.—*Of the assembling and functions of Congress.*

Time, place, and duration of the ordinary meetings of the legislature—Formalities necessary for its opening, working, and closing—Extraordinary sessions.—Removals of Congress—Meeting of the two houses of Congress—Illegal assemblages.—Functions of Congress.—Limitations of legislative power.

## ARTICLE 68.

The two legislative houses shall meet in ordinary session, by virtue of law, every two years, on the 29th day of July, in the capital of the Republic.

The ordinary sessions shall continue for one hundred and twenty days, after which the Government may declare the houses adjourned.

## ARTICLE 69.

The two houses shall be opened and closed publicly and at the same time.

## ARTICLE 70.

The two houses shall not open their sessions nor deliberate with less than one-third of their members.

The President of the Republic, in person or through his ministers, shall open and close the two houses.

This ceremony is not essential to the legal exercise of congressional functions.

## ARTICLE 71.

When, on the arrival of the day for the assembling of Congress, it is found that the requisite quorum is not present, the members present, sitting in provisional council, shall impose such fine upon the absent members as may be prescribed by the houses respectively, and the sessions shall be opened as soon as the requisite number of members is present.



## ARTICLE 72.

Congress shall assemble in extraordinary session when summoned by the Government. It shall, in such sessions, consider only such business as is specially submitted by the Government for its consideration.

## ARTICLE 73.

By agreement of the two houses, Congress may assemble at a place different from the capital, and in the case of a public disturbance it may assemble at a place designated by the president of the senate.

## ARTICLE 74.

The two houses of Congress shall assemble as a single body, only for the purpose of installing the President of the Republic, and to perform the act prescribed in Article 77.

On such occasions the president of the senate and the president of the house of representatives shall be, respectively, the president and vice-president of Congress.

## ARTICLE 75.

All meetings of members of Congress for the purpose of exercising their legislative functions, that shall not have taken place under the conditions prescribed by the constitution, shall be illegal; their acts shall be null; and the individuals who participated in the deliberations shall be punished according to law.

## ARTICLE 76.

Congress shall make the laws.

By means of these laws, it exercises the following functions:

- (1) To interpret, amend, and repeal pre-existing laws.
- (2) To modify the general division of the territory in accordance with Articles 5 and 6, and to establish and reform, whenever proper, the other territorial divisions defined in Article 7.
- (3) To confer special powers upon the department assemblies.
- (4) To regulate the administration of Panama;
- (5) To change the residence of the national officers whenever under extraordinary circumstances and for grave reasons it may be deemed necessary for the public convenience.
- (6) To organize and provide for the standing army every two years in ordinary session.
- (7) To create all public offices required by the public service, and to fix the respective salaries thereof.
- (8) To regulate the public service, determining all the matters referred to in Article 62.
- (9) To authorize the Government to make contracts, negotiate loans, alienate national property, and exercise other prerogatives within constitutional limits.
- (10) To invest the President of the Republic temporarily with such extraordinary powers as necessity may require or the public convenience demand.
- (11) To provide for the national revenues and to determine the expenses of the administration. Each legislature shall vote a general estimate thereof. The estimate so made shall not include any item not previously decreed by law nor a credit not judicially recognized.
- (12) To recognize the national debt and provide for its payment.
- (13) To decree extraordinary expenses whenever necessity requires it.
- (14) To approve or disapprove contracts or agreements entered into by the President of the Republic with private persons, companies, or political corporations wherein the national treasury is interested, if they have not been previously authorized, or if the formalities prescribed by Congress have not been complied with, or if any condition contained in the law authorizing them has been disregarded.
- (15) To determine the alloyage, weight, impress, and denomination of coins, and to regulate the system of weights and measures.
- (16) To organize the public credit.
- (17) To decree the execution or continuance of public works and the erection of public monuments.
- (18) To aid the construction of such useful and beneficent works as may be deemed worthy of encouragement and support.

(19) To decree public honors to such citizen who may have rendered distinguished services to the country.

(20) To approve or disapprove the treaties entered into by the Government with foreign powers.

(21) To grant, by a vote of two-thirds of the members of each house, and for grave considerations of the public good, amnesties and general pardon for political offenses. In case the recipient of such amnesty or pardon is thereby relieved from responsibility to any person, the Government shall assume the burden of indemnifying such person.

(22) To limit or regulate the appropriation or conveying of waste lands.

#### ARTICLE 77.

Congress shall elect at its ordinary sessions, and for a term of two years, the *designado*,\* who shall exercise the executive power in default of both President and vice-president.

#### ARTICLE 78.

The following acts are prohibited to Congress and to either of the houses thereof:

(1) To address appeals to public officers.

(2) To enact laws or adopt resolutions concerning matters that are exclusively entrusted to other departments of the Government.

(3) To vote approval or censure of any official act.

(4) To require the Government to communicate to it the instructions, given to diplomatic agents, or to give information relative to negotiations of a private character.

(5) To decree to any person any reward, indemnity, pension, or other pecuniary consideration that is not intended to satisfy credits or rights recognized by existing laws, except in the case provided in Article 76, paragraph 18.

(6) To enact laws of banishment or persecution against persons or corporations.

#### TITLE VII.—*On the enactment of laws.*

Method of originating legislative enactments—Limitation of the power—Requisites for legalizing acts of Congress—Participation of the Government in the debates—Participation of the supreme court—Rights and duties of the Government relative to the approval of laws—Formalities to be observed in considering the objections of the Government—Intervention of the supreme court—The enacting clause.

#### ARTICLE 79.

Laws may originate in either house, and may be introduced by any member thereof or by the ministers of the Government.

#### ARTICLE 80.

Laws of the following classes shall be excepted from the provisions of the preceding article:

(1) Such laws as must originate in the house of representatives (Article 102, section 2).

(2) Such enactments as relate to the civil laws and to judicial proceedings which can only be amended by bills originating in a committee of either house or with the ministers of Government.

#### ARTICLE 81.

No legislative enactment shall become a law, unless—

(1) It shall have passed three readings and been adopted in each house on three different days by a majority of the members thereof; and

(2) It shall have obtained the approval of the Government.

#### ARTICLE 82.

The consideration of a law cannot be closed upon the second reading thereof, nor can a vote be taken thereon without the presence of an absolute majority of the members composing the house.

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\* "*Designado*" is the title of the officer *designated* by the Congress to exercise the executive power of the nation in the absence of both the President and vice-president.

## ARTICLE 83.

The Government may take part in all legislative debates through the ministers of the Government.

## ARTICLE 84.

The judges of the supreme court shall be entitled to be heard in the discussion of all bills relating to civil laws and judicial procedure.

## ARTICLE 85.

After a bill shall have passed both houses it shall be sent to the Government, and if approved thereby it shall be promulgated as a law.

If not approved, the Government shall return it with the objections thereto to the house in which it originated.

## ARTICLE 86.

The President of the Republic shall be allowed the term of six days within which to return a bill with the objections, provided it does not contain more than fifty articles; he shall be allowed the term of ten days when the bill contains from fifty-one to two hundred articles, and fifteen days when the bill contains more than two hundred articles.

If the President shall not have returned the bill with the objections within the term prescribed therefor, he shall approve and promulgate it. But if the houses should adjourn within the term prescribed for the consideration of a bill then in the hands of the President, he shall, within ten days after the adjournment, publish the bill together with his approval or objections.

## ARTICLE 87.

A bill objected to as a whole shall be returned by the President for its consideration by the houses on the third reading. If it shall have been objected to only in part, it shall be placed upon its second reading with the sole object of considering the objections of the Government.

## ARTICLE 88.

Any bill that shall be passed by two-thirds of the members of both houses, notwithstanding the objections of the President, shall be approved by him, and he shall not have the power to present new objections thereto.

## ARTICLE 89.

If the Government shall fail to approve the bills under the terms and according to the conditions established by this title, it shall be the duty of the president of Congress to approve and promulgate the same.

## ARTICLE 90.

If a bill should be objected to for the reason that it is unconstitutional, it shall be excepted from the provision of Article 88. In that case, if the houses so declare, it shall be referred to the supreme court for its decision, which shall, within six days, decide upon its constitutionality. If the decision of the court should be favorable to the bill, the President shall give it his approval. If the decision be unfavorable, the bill shall fail and be removed from the calendar.

## ARTICLE 91.

All bills left pending in either house upon their adjournment shall not be considered otherwise than as new bills by another legislature.

## ARTICLE 92.

The enacting clause of all laws shall be: The Congress of Colombia decrees.



TITLE VIII.—*Of the senate.*

Composition of the senate—Qualifications of senators—Senatorial term and manner of its renewal—Judicial powers of the senate—Other powers of the senate.

## ARTICLE 93.

The senate shall be composed of three senators from each department.  
Two substitutes shall be elected for each senator.

## ARTICLE 94.

Senators shall be native Colombians and in the full enjoyment of their citizenship; they shall be more than thirty years of age, and shall be in the enjoyment of an annual revenue of at least \$2,000 derived from property or the exercise of an honest occupation.

## ARTICLE 95.

Senators shall be elected for the term of six years, and they shall be re-eligible indefinitely.

One-third part of the senate shall be renewed every two years, in the manner to be determined by law.

## ARTICLE 96.

The senate shall try all impeachments of public officers that may be presented by the house of representatives, referred to in Article 102, section 4.

## ARTICLE 97.

In all trials by the senate the following rules shall be observed:

(1) Whenever an accusation is publicly made, the accused shall be, *ipso facto*, suspended from his office.

(2) If the accused be charged with offenses committed while in the performance of his public duties, or with unfitness on account of misconduct, the senate shall not have the power to impose other penalty than removal from office or the temporary or permanent deprivation of political rights; but if the accused be charged with offenses that merit other penalties, he shall be tried under criminal proceedings in the supreme court.

(3) If the accused be charged with a common crime, the senate shall determine whether there be grounds for proceeding against him, and in case of an affirmative decision it shall remand him to the supreme court for trial.

(4) The senate shall refer the preparation of each trial to a committee of its own body, reserving to itself the duty of trial and of pronouncing sentence, which shall be done in open session and by a vote of two-thirds at least of the senators who engage in the trial.

## ARTICLE 98.

The senate shall also be invested with the following powers:

(1) To reinstate those who have forfeited their rights of citizenship. This act of clemency, according to the circumstances of each case, shall extend only to electoral rights, or to the capacity to fill public offices, or to the exercise of political functions.

(2) To appoint two members of the council of state.

(3) To accept or decline the resignations of the President or vice-president, or designado.

(4) To confirm or reject the nominations made by the President of the Republic of judges of the supreme court.

(5) To confirm or reject the military appointments made by the Government from the rank of lieutenant-colonel to that of the highest offices in the army and navy.

(6) To grant leave to the President of the Republic to absent himself temporarily from his office, for other cause than for sickness, or to permit him to exercise his functions outside of the capital.

(7) To permit the passage of foreign troops through the territory of the Republic.

(8) To appoint the commissioners referred to in article 4.

(9) To authorize the Government to declare war against a foreign country.

TITLE IX.—*Of the house of representatives.*

Composition of the house—Qualifications of members and term of their office—Powers of the house

## ARTICLE 99.

The house of representatives shall consist of one member for every fifty thousand inhabitants of the Republic. Two substitutes shall be elected for each member.

## ARTICLE 100.

No person shall be a representative who is not a citizen in the full enjoyment of the rights thereof, and who shall not be more than twenty-five years of age, or who shall have been condemned for an offense punishable with corporal punishment.

## ARTICLE 101.

Representatives shall be elected for the term of four years, and they shall be re-eligible indefinitely.

## ARTICLE 102.

The house of representatives shall have the following powers:

- (1) To examine and pronounce finally upon the general account of the treasury.
- (2) To originate all laws for the laying of taxes and for the organization of the public ministry.
- (3) To appoint two councilors of state.
- (4) To impeach to the senate, when occasion shall require it, the President and vice-president of the Republic, the ministers of state the councilors of state, the attorney-general, and the judges of the supreme court.
- (5) To examine charges and complaints presented to it by the attorney-general or by private persons against either of the above-named public officers, except the President and vice-president, and if found proper, to prepare articles of impeachment for the consideration of the senate.

TITLE X.—*Provisions common to both houses and to the members thereof.*

Powers common to both houses—Publicity of sessions—Representative character of the members of Congress—Irresponsibility for votes given—Personal immunity—Incompatibility of duties—Pecuniary compensation—Provisions regarding vacancies.

## ARTICLE 103.

Each of the two houses shall have the following powers:

- (1) To make regulations for the government of its own body, and to adopt such measures as it may deem proper to insure the attendance of its members.
- (2) To create and provide for such offices as it may deem necessary for the discharge of its business.
- (3) To organize, when necessary, a police force for the building in which it holds its sessions.
- (4) To examine whether the credentials presented by members are in accordance with law and entitle them to seats.
- (5) To answer, or not, the messages of the Government.
- (6) To call upon the ministers for written or verbal information necessary for the public business, or to inform themselves of the acts of the administration, except such as are reserved from this inquiry by Article 78, section 4.
- (7) To appoint commissioners to represent it in any official act.
- (8) To appoint speakers from its body to appear before the other house in case of disagreement in the formation of a law.
- (9) To approve all the resolutions that it may deem proper within the limits prescribed in Article 78.

## ARTICLE 104.

The sessions of the two houses shall be public, within the limitations as prescribed by law.

## ARTICLE 105.

The members of the two houses represent the whole nation, and should vote in the sole interest of justice and the public good.

## ARTICLE 106.

Senators and representatives shall not be held responsible for votes and opinions given by them in the exercise of their duties. For any expression in debate they shall be alone responsible to the house to which they belong. They may be called to order by the presiding officer and punished according to the regulations for any offense committed.

## ARTICLE 107.

During a session of Congress, and for forty days prior thereto, no member thereof shall be brought to civil or criminal trial without the permission of the house to which he belongs. In case of his being discovered in the actual commission of an offense he may be arrested and placed at the disposition of the house of which he is a member.

## ARTICLE 108.

The President and vice-president of the Republic, the ministers and councilors of state, the judges of the supreme court, the attorney-general of the nation, and the governors, shall not be eligible as members of Congress until six months after they shall have ceased to perform the duties of their offices respectively.

No person shall be a senator or representative for any department or electoral district in which, three months prior to the election, he may have exercised civil, political, or military jurisdiction or authority.

## ARTICLE 109.

The President of the Republic shall not have the power to appoint senators and representatives to any office during their respective terms, nor for one year after the expiration thereof, except the offices of minister or councilor of state, governor, diplomatic agent, and military chief in time of war.

The acceptance of either of these offices by a member of Congress shall vacate the seat of such member.

## ARTICLE 110.

Senators and representatives shall not, either directly or through third persons, enter into any contract with the administration, nor shall they accept a power of attorney for the negotiation of any business with the Government of Colombia.

## ARTICLE 111.

Whenever a senator or representative shall vacate his seat, and it shall be filled by his substitute, the former shall be entitled to the traveling expenses to the capital, and the latter to the traveling expenses to his domicile.

## ARTICLE 112.

No increase in the per diem pay of the members, nor in the compensation or their traveling expenses, shall go into effect during the session in which the same may have been enacted.

## ARTICLE 113.

In case of the temporary or permanent absence of a member of Congress, the vacancy shall be filled by his substitute.

TITLE XI.—*Of the President and Vice-President of the Republic.*

*Election of the President.*—Qualifications—Oath of office.

*Functions of the President.*—(a) In connection with the legislative power; (b) with the judiciary; (c) as supreme administrative officer—His functions in time of war—Responsibility—Manner of providing for his absence.

*Of the Vice-President of the Republic.*

*Of the Designado.*

## ARTICLE 114.

The President of the Republic shall be elected by the electoral assemblies voting on the same day, and in the manner determined by law, for a term of six years.

## ARTICLE 115.

The President of the Republic shall possess the same qualifications as a senator.

## ARTICLE 116.

The President-elect of the Republic shall take possession of his office in the presence of the president of Congress, and he shall take the following oath: "I swear before God to comply faithfully with the constitution and the laws of Colombia."



## ARTICLE 117.

If, for any reason, the President should not be able to take possession of his office in the presence of the president of Congress, he shall do so before the president of the supreme court, and failing in this, before two witnesses.

## ARTICLE 118.

The President of the Republic shall exercise the following powers in relation to the legislative department:

- (1) To open and close the ordinary sessions of Congress.
- (2) To convene Congress in extraordinary sessions for serious reasons of public convenience and after previous consultation with the council of state.
- (3) To address to Congress, at the beginning of each legislature, a message upon the acts of the administration.
- (4) To send, at the same time, to the house of representatives, the budget of the revenues and expenses, and a general account of the treasury.
- (5) To furnish to the two houses such information as they may call for not requiring secrecy.
- (6) To furnish efficient aid to the two houses when they demand it, placing at their disposal, if necessary, the whole public force.
- (7) To co-operate in the enactment of laws, by presenting bills through the medium of the ministers, and by exercising the right of veto and approval under the constitution.
- (8) To issue decrees that shall have the binding force of legislative enactments in such cases and with such formalities as are prescribed in Article 121.

## ARTICLE 119.

The President of the Republic shall exercise the following powers in relation to the judiciary department:

- (1) To appoint the judges of the supreme court.
- (2) To appoint the judges of the superior tribunals, each one from a list of three nominations made to him by the supreme court.
- (3) To appoint and remove the public ministers.
- (4) To see that prompt and full justice is administered all over the Republic, furnishing judicial officers, under the provisions of law, with such aid as may be necessary for the enforcement of their decrees.
- (5) To cause to be accused before a competent tribunal, through the respective agent of the public ministry, or by a special attorney appointed for the purpose, the governors of department, or any other national or municipal officers charged with administrative or judicial duties; for any violation of the constitution or laws, or for other offenses committed in the exercise of their functions.
- (6) To commute the sentence of death, with the previous consent of the council of state, for the punishment next preceding it in the penal scale, and to grant pardons for political offenses and commutations of sentence for common offenses, in accordance with the laws that regulate the exercise of this power. In no case shall these pardons and commutations relieve the beneficiaries of responsibilities due by them to private persons under the laws.

He shall not exercise the last prerogative towards the ministers of state except upon a petition from one of the houses of Congress.

## ARTICLE 120.

The President of the Republic shall exercise the following power as the chief executive officer of the nation:

- (1) To appoint and remove, at his pleasure, the ministers of state.
- (2) To promulgate the laws, to obey them, and to see that they are faithfully executed.
- (3) To perform his general executive power by issuing ordinances, decrees, and resolutions necessary to the execution of the laws.
- (4) To appoint and remove, at his pleasure, the governors.
- (5) To appoint two councilors of state.
- (6) To appoint all persons in the national service not otherwise provided for by the constitution and the laws to be hereafter enacted. In all cases the President shall have the power to appoint and remove his agents at his pleasure.
- (7) To control the public force and to confer military appointments, under the restrictions imposed in section 5 of Article 98, and with the formalities established by law for the exercise of this power.

(8) To preserve and maintain public order throughout the Republic.

(9) To direct, whenever he may think proper, the military operations as chief of the armies of the Republic. If he should personally exercise the military command beyond the limits of the capital, the vice-president shall then assume charge of the other duties of the executive office.

(10) To direct diplomatic and commercial relations with other powers and sovereigns, to appoint at his pleasure and to receive the respective agents, and to negotiate treaties and conventions with foreign powers. All treaties shall be submitted to Congress for its approval, and all conventions, in the recess of the two houses, shall be approved by the President, with the consent of the ministers and of the council of state.

(11) To provide for the exterior safety of the Republic, defending the independence and honor of the nation, and the inviolability of the territory; to declare war, with the consent of the senate, or to make war without such consent whenever it becomes necessary to repel a foreign invasion; and to conclude and ratify the treaty of peace, reporting his proceedings with documents to the next legislature.

(12) To permit, in the recess of the senate and after having previously consulted the council of state, the passage of foreign troops across the territory of the Republic.

(13) To permit, after consultation with the council of state, the harboring of foreign vessels of war within the waters of the nation.

(14) To supervise the strict collection and administration of the revenues and public moneys, and to decree their disbursement according to law.

(15) To regulate, direct, and inspect public national education.

(16) To enter into administrative contracts for the engagement of services or for the performance of public works, in accordance with the fiscal laws, and rendering account thereof to the Congress in its ordinary session.

(17) To organize the national bank and to exercise the necessary inspection over banks of emission and other establishments of credit in conformity with the laws.

(18) To permit the acceptance, by the national employes who may request it, of offices or gifts from foreign countries.

(19) To issue letters of naturalization in conformity with law.

(20) To grant patents for prescribed periods to the authors of useful inventions and improvements, in accordance with the laws.

(21) To exercise the right of inspection and vigilance over institutions of common utility, in order that their revenues may be preserved and properly applied, and that the will of the founders may be in all respects carried out.

#### ARTICLE 121.

In case of a foreign war or of civil commotion, the President may, after consultation with the council of state and with the written consent of all the ministers, declare the Republic to be in a state of war or public order to be disturbed in the Republic or in a part thereof.

After such a declaration shall have been proclaimed, the President shall be invested with all the powers conferred by law to defend the rights of the nation or repress the disturbance, and in case such law shall not be efficient for the purpose, he shall use the powers conferred by the laws of nations. The extraordinary measures or decrees of a provisional character within the said limits, which the President may ordain, shall be binding, provided they bear the signatures of all the ministers.

The Government shall declare the restoration of public peace whenever the civil commotion or foreign war shall have ceased; and shall send to Congress a report of the reasons that induced his measures. All officers shall be responsible for the abuse of extraordinary powers confided to them.

#### ARTICLE 122.

The President of the Republic, or whosoever shall exercise the executive powers in his stead, shall be responsible only in the following cases, to be defined by law:

(1) For acts of violence or coercion at elections;

(2) For acts that may prevent the constitutional assembling of the legislative houses, or may obstruct them or other public corporations or authorities established by the constitution, in the exercise of their duties; and

(3) For acts of high treason.

In the first two cases, the penalty shall be removal from office, and if he shall have ceased to exercise his office of President, he shall not be re-eligible to the presidency.

No act of the President, except the appointment and removal of ministers, shall be valid or binding until it shall have been signed and promulgated by the minister to whose department it refers, which minister shall then be responsible for the same.

## ARTICLE 123.

The senate may grant a leave of absence to the President from his executive office.

The President may, on account of bad health, retire for the time necessary to its restoration from his public duties by giving previous notice thereof to the senate, or, if not in session, to the supreme court.

## ARTICLE 124.

The vice-president of the Republic shall perform the duties of the executive office, during the temporary absence of the President.

In case of the permanent absence of the President, the vice-president shall occupy the executive office until the expiration of the term for which he was elected.

The death or accepted resignation of the President shall be considered cases of permanent absence.

## ARTICLE 125.

Whenever the vice-president, for any reason, shall not be able to discharge the duties of the presidency, they shall be performed by the designado elected by Congress for the two years during which the disability occurs.

Whenever, for any reason, the Congress may have failed to elect a designado, the designado who was last elected shall continue to act in that capacity.

In the absence of both the vice-president and designado, the executive office shall be filled by the ministers and the governors, the latter in the order of the proximity of their residence to the capital of the Republic. The council of state shall have the power, in each case in which such a vacancy may occur, to designate the minister who shall fill the executive office.

## ARTICLE 126.

The person in charge of the executive office shall enjoy the same privileges and exercise the same powers accorded to the President whose office he fills.

## ARTICLE 127.

The citizen who may have been elected President of the Republic shall not be re-elected for the following term, provided he filled the executive office during the eighteen months immediately preceding the new election.

The citizen who may have been called to the exercise of the presidency, and who shall have performed its duties within the six months next preceding the new election, shall not be eligible to the presidency.

## ARTICLE 128.

The vice-president of the Republic shall be elected at the same time, by the same electors, and for the same term as the President.

## ARTICLE 129.

The vice-president shall possess the same qualifications as the President.

## ARTICLE 130.

The vice-president shall be the presiding officer of the council of state, and he shall perform such other duties as shall be imposed on him by law.

## ARTICLE 131.

In case of the permanent absence of the vice-president, his office shall remain vacant until the end of his constitutional term.

TITLE XII.—*Of the ministers of state.*

Administrative departments—Qualifications of ministers—Their functions—Delegated power exercised by them.

## ARTICLE 132.

The number, names, and precedence of the several ministers of administrative department shall be determined by law.

The President shall assign to the several ministers the business that appertains to their departments respectively.



## ARTICLE 133.

A minister shall possess the same qualifications as a representative.

## ARTICLE 134.

The ministers are the Government's organs of communication with Congress; they present bills to the two houses, take part in the debates, and counsel the President in his consideration of legislative acts.

Each minister shall present to Congress, within the first fifteen days of each legislature, a report upon the condition of affairs appertaining to his department and advise such reforms as experience may suggest.

The two houses may require the assistance of the ministers.

## ARTICLE 135.

The ministers, as superior chiefs of the administration, may exercise presidential authority in certain cases, according as the President may direct. Under their own responsibility, they may annul, reform, or suspend the acts of their subordinate officers.

TITLE XIII.—*Of the council of state.*

Formation of council of state—Division of the council into sections—Substitutes—Powers of the council.

## ARTICLE 136.

The council of state shall consist of seven persons, to wit, the vice-president of the Republic, who shall preside, and six voting members, in accordance with this constitution. The ministers of state shall have a voice in the council, but shall not be permitted to vote therein.

## ARTICLE 137.

The office of a councilor of state is incompatible with any other employment.

## ARTICLE 138.

The councilors of state shall hold their office for four years, and one-half of the council shall be renewed every two years.

## ARTICLE 139.

The council shall be divided into sections for the performance of its proper duties in such manner as the law may direct or as the council itself may ordain.

## ARTICLE 140.

The law shall determine the number of substitutes for the councilors and the rules in regard to the mode of their appointment, their services, and responsibilities.

## ARTICLE 141.

The council of state shall possess the following attributes:

(1) To act as the supreme consulting body of the Government in matters of administration, in which case they shall be heard regarding all affairs committed to their advice by the constitution and the laws. The opinions of the council shall not be binding upon the Government, except in a vote for the commutation of the death penalty.

(2) To prepare bills and codes for the consideration of the two houses, and to propose such reforms as they may deem proper in the several branches of legislation.

(3) To decide, without appeal, all controversies within the administrative department of the Government, provided the law shall establish this jurisdiction either original and exclusive, or appellate. In this case the council shall have a section to whom such controversies shall be referred and also an attorney, both to be created by law.

(4) To keep a register of their opinions and resolutions, and to transmit a copy thereof, through the Government, to the Congress within fifteen days after the opening of the regular sessions, except the secret business of the council, as long as the secrecy may be deemed necessary.

(5) To establish its own regulations for the conduct of its business, with the obligation that it shall hold as many sessions in each month as shall be necessary to discharge the business appertaining thereto.

And all such other attributes as the law may ordain.

#### TITLE XIV.—*Of the public ministry.*

Attributes of the public ministry; of the attorney-general, his term of office, his functions.

##### ARTICLE 142.

The public ministry shall be exercised, under the direction of the Government, by an attorney-general of the nation, by ministerial officers of the superior district tribunals, and by the other functionaries to be designated by law.

The house of representatives shall exercise ministerial functions.

##### ARTICLE 143.

The officers of the public ministry shall defend the interests of the nation, promote the execution of the laws, judicial sentences and administrative orders; they shall supervise the official conduct of public employes; and prosecute those guilty of crimes and misdemeanors that disturb the social order.

##### ARTICLE 144.

The term of office of the attorney-general shall be three years.

##### ARTICLE 145.

The attorney-general of the nation shall be vested with the following functions:

1) To see that all public officers in the service of the nation shall properly discharge their duties.

(2) To arraign before the supreme court all officers who are to be tried by it.

(3) To see that all the other officers of the public ministry shall faithfully discharge their duties and to hold them to a legal responsibility for all illegal acts.

(4) To appoint and remove at his pleasure his immediate subordinate officers.

And all such other functions as the law may assign to him.

#### TITLE XV.—*Of the administration of justice.*

Supreme court of justice—Term of office and qualifications of the judges—Attributes of the supreme court—Superior district tribunals—Qualifications and term of office of its members—Inferior tribunals—Qualifications of judges—Miscellaneous provisions concerning the several judges—General rules—Juries in criminal cases—Commercial courts—Administrative disagreements.

##### ARTICLE 146.

The supreme court shall be composed of seven judges.

##### ARTICLE 147.

The judges of the supreme court shall fill their office during good behavior. The law shall determine the causes for which they are removable and the formalities to be observed in declaring judicial sentence in such cases.

Any judge who may accept any other office from the Government shall be held to have vacated his judgeship.

##### ARTICLE 148.

The president of the supreme court shall be elected every four years by the court itself.

##### ARTICLE 149.

There shall be seven substitutes appointed to supply the temporary vacancies that may occur on the supreme bench. Whenever a permanent vacancy shall occur, either by death, resignation, or under a constitutional provision or by judicial decree, a new appointment shall be made to supply the vacancy.

## ARTICLE 150.

The judges of the supreme court shall be Colombians by birth and in the exercise of the full rights of citizenship; they shall be at least thirty-five years of age and have presided as judges in one of the superior district tribunals or in one of the tribunals of the former States, or they shall have pursued, with credit, for five years at least, the profession of law, or have been professors of jurisprudence in some public institution.

## ARTICLE 151.

The supreme court shall exercise the following functions:

- (1) To take cognizance of causes on appeal, conformably with the law.
  - (2) To adjust all disagreements that may arise between two or more district tribunals.
  - (3) To take cognizance of all lawsuits in which the nation may be interested, or which may involve a controversy between two or more departments.
  - (4) To decide, finally, upon the constitutionality of all legislative acts that may have been objected to by the Government for alleged unconstitutionality.
  - (5) To decide, in conformity with law, upon the validity or nullity of such ordinances enacted by the departments as may have been suspended by the Government or denounced before the tribunals as subversive of civil rights.
  - (6) To try the high national officers who may have been accused before the Senate for any offense that is made triable thereby under Article 97.
  - (7) To take cognizance of all causes for violation of the constitution or laws, or for malfeasance in office, that may be instituted against diplomatic or consular agents of the Republic, governors, judges, commanders or generals of the national forces, and the chiefs of the principal treasury offices of the nation.
  - (8) To take cognizance of all causes affecting diplomatic agents accredited to the Government of the nation, which are provided for by international law.
  - (9) To take cognizance of all causes relating to the navigation of the sea or of navigable rivers flowing through the territory of the nation.
- And all such other functions as the law may assign to it.

## ARTICLE 152.

The court shall appoint and remove, at pleasure, its subordinate officers.

## ARTICLE 153.

In order to facilitate the prompt administration of justice, the national territory shall be divided into judicial districts, in each of which there shall be a superior tribunal, whose formation and functions shall be determined by law.

## ARTICLE 154.

In order to serve as a judge in the superior tribunals, it is required to be a citizen in the exercise of citizenship, to be thirty years of age at least, and have creditably practiced the profession of the law, or taught in a public institution.

## ARTICLE 155.

The provisions contained in Article 147 shall apply to judges of the superior tribunals. They shall be responsible to the supreme court, in the manner to be determined by law, for all malfeasance in office and for the commission of all acts in derogation of official dignity.

## ARTICLE 156.

The inferior courts shall be organized, and their functions and the terms of their judges shall be determined, by laws to be enacted for the purpose.

## ARTICLE 157.

Every person filling the office of judge shall be a citizen in the full enjoyment of the rights of citizenship, shall be learned in the law, and shall bear a good reputation. The second requisite herein prescribed shall not be required of municipal judges.

## ARTICLE 158.

Inferior judges shall be held responsible by their respective superiors.



## ARTICLE 159.

Judicial offices shall not be cumulative, and they are incompatible with the exercise of any other office of emolument or with any participation in the practice of the law.

## ARTICLE 160.

Judges shall not be suspended from the exercise of their functions except in the cases and under the formalities prescribed by law, nor otherwise than by a judicial decree. And their transference to other employments shall leave their judgeship vacant.

The salaries of the judges shall not be abrogated or diminished, if they should suffer any prejudice in consequence thereof.

## ARTICLE 161.

Every sentence shall be accompanied by the reasons therefor.

## ARTICLE 162.

The law may institute juries for the trial of criminal suits.

## ARTICLE 163.

Courts of commerce may be established.

## ARTICLE 164.

There may be established by law tribunals with jurisdiction to resolve administrative differences, which tribunals shall take cognizance of all differences occasioned by the administrative acts of the several departments; and power may also be given to the council of state to decide all conflicts between the several ministries of the administration.

TITLE XVI.—*Of the public force.*

Military service—Standing army—Force.—Duties and rights of soldiers—Courts martial—National militia.

## ARTICLE 165.

All Colombians shall be required to bear arms when public necessity requires that they should do so to defend the national independence and the institutions of the country.

All exemptions from military service shall be determined by law.

## ARTICLE 166.

The nation shall keep a standing army for its defense. The law shall determine the mode of filling vacancies in the army, as well as all matters relating to the promotion, rights, and duties of soldiers.

## ARTICLE 167.

Whenever the law shall fail to fix the number of the standing army, the provisions of the preceding law relating thereto shall be in force.

## ARTICLE 168.

The army is not a deliberative body. It shall not assemble except by order of the legitimate authority; it shall not address petitions except in the interest of its better service and morals and in accordance with the laws governing the same.

## ARTICLE 169.

Persons in the military service shall not be deprived of their rank, honors, and pensions except in the cases and manner pointed out by law.

## ARTICLE 170.

Courts martial or military tribunals shall take cognizance, under the laws of the military penal code, of all offenses committed by persons in the active service of the army and in regard to the said service.

## ARTICLE 171.

The law may organize and establish a national militia force.

TITLE XVII.—*Of elections.*

**Election of municipal councilors and deputies of departments—Of electors and representatives—Of president and vice-president—Rules for organizing the two houses—Territorial division for the election of representatives—Limitation of electoral right—Judges of inquiry.**

## ARTICLE 172.

All the citizens shall elect directly the municipal councilors and the deputies to the assemblies of the departments.

## ARTICLE 173.

All citizens who may know how to read and write, or who have an annual revenue of five hundred dollars, or who own immovable property to the value of one thousand five hundred dollars may vote for electors, and shall elect directly the representatives.

## ARTICLE 174.

The electors shall vote for the President and vice-president of the Republic.

## ARTICLE 175.

The senators shall be elected by the assemblies of the departments; but in no case shall members of the said assemblies be elected who may have belonged thereto within one year of the date of election.

## ARTICLE 176.

There shall be one elector for each one thousand inhabitants.

There shall also be one elector for each district that may contain less than one thousand inhabitants.

## ARTICLE 177.

The electoral assemblies shall be renewed at each presidential election, and the legitimate members thereof shall not be deprived of the right of exercising their functions unless their rights of citizenship have been suspended or forfeited by judicial decree.

## ARTICLE 178.

Each department shall be divided into as many electoral districts as it may be entitled to representatives, and each district shall elect one representative.

The law shall make provision for dividing the departments as provided for in the preceding paragraph, and in the absence of such provision the Government shall provide for the same.

Municipal districts containing more than 50,000 inhabitants shall be constituted electoral districts, and shall elect one or more representatives according to their population.

In case the fractions of population over and above the number necessary for a representative shall, when added together, amount to more than 25,000 inhabitants, they shall elect one additional representative. The law shall fix the rules for the election of the said additional members.

## ARTICLE 179.

The right of suffrage shall be exercised as a constitutional function. The person who votes or elects does not thereby impose any obligation on the candidate, nor does he confide any trust to the officer elect.

## ARTICLE 180.

There shall be judges of inquiry, vested with equity jurisdiction, who shall be empowered to decide all questions concerning the validity or nullity of election records, concerning the elections themselves, or the particular votes cast thereat.

These judges shall be responsible for their decisions, and they shall be appointed in the manner and for the term provided by law.

## ARTICLE 181.

The law shall provide for all matters relating to elections and the judicial inquiry thereof, and it shall make the functions of each independent of the other. It shall define the crimes by which the freedom of elections or the truthfulness of their returns are impaired, and it shall prescribe the proper penalties therefor.

TITLE XVIII.—*Of the administration of the departments and municipal districts.*

Territorial division of the departments—Assemblies of the departments—How composed—Their powers—Property of the departments—Their estimates of revenues and expenses—Revision of the acts of the assemblies—Governors; their term of office; their powers—Incompatibility—Corporations and mayors; their functions—Administration of the department of Panama.

## ARTICLE 182.

For the convenience of the public service the departments shall be divided into provinces, and the latter into municipal districts.

## ARTICLE 183.

Each department shall contain an administrative body to be denominated a department assembly, which shall be composed of one deputy for each 12,000 inhabitants. The law may change the preceding computation.

## ARTICLE 184.

The assemblies shall meet ordinarily every two years in the capital of the department.

## ARTICLE 185.

The assemblies shall direct and encourage, by means of ordinances and with the resources belonging to the department, primary education and charitable works, industrial establishments and the introduction of new improvements, immigration, the introduction of foreign capital, the colonization of department lands, the opening of roads and navigable canals, the construction of railways, the utilization of woods belonging to the department, the improvement of rivers, matters relating to the local police, the superintendence of the revenues and expenses of the districts, and, generally, whatever relates to local interests and to internal progress.

## ARTICLE 186.

The assemblies of the departments shall also create and abolish municipalities upon the basis of population established by law, and restrict or enlarge the municipal limits as local interests may require. If any complaints should be made, of injury done on account of any act restricting or enlarging said limits, the Congress shall have cognizance of the said complaints.

## ARTICLE 187.

The assemblies of the department may, by the authorization of Congress, exercise other functions than those especially belonging to them by law.

## ARTICLE 188.

The property, rights, values, and shares, which, by the laws or by the decrees of the national Government or by any other title, may have formerly belonged to the late sovereign States, are hereby conveyed to the respective departments and shall belong to them during their legal existence.

The immovable property referred to in Article 202 is not included in this conveyance.



## ARTICLE 189.

The assemblies shall vote every two years the estimate of revenues and expenses of their respective departments, and shall, according to law, make the appropriations necessary to meet the expenses so estimated.

## ARTICLE 190.

The assemblies of the departments may, in order to discharge the expenses of administration, levy taxes under the conditions and within the limits prescribed by law.

## ARTICLE 191.

The ordinances enacted by the assemblies shall be enforceable and binding as long as they shall not be suspended by the governor nor by judicial authority.

## ARTICLE 192.

All persons injured by acts of the assemblies may appeal for relief to a competent tribunal, which may, as a measure of prompt relief and to avert a serious injury, suspend the act complained of.

## ARTICLE 193.

There shall be a governor in each department who shall exercise the functions of the executive power—as agent of the central administration, on the one part, and on the other as superior chief of the administration of the department.

## ARTICLE 194.

The governors shall be appointed for the term of three years, and they may be re-appointed.

## ARTICLE 195.

The governor shall be vested with the following powers:

(1) To obey the orders of the Government himself and to see that they are obeyed by others in the department.

(2) To direct administrative action in the department, to appoint and remove his agents, to reform and revoke their acts, and to adopt all necessary measures for the conduct of the several branches of the administration.

(3) To be the organ of the department and to represent it in all political and administrative matters.

(4) To assist the administration of justice within the limits prescribed by law.

(5) To supervise and protect official corporations and public establishments.

(6) To approve, in the manner determined by law, the ordinances that may be enacted by the assemblies of departments.

(7) To suspend, by virtue of his office or on petition of the party aggrieved, and by an order setting forth his reasons therefor, and within ten days after their issue, such ordinances of the assemblies as have been enacted without authority, or in violation of law, or in contravention of the rights of third parties; and he shall submit such suspension to the Government for its ratification or rejection.

(8) To review the acts of the municipalities and of the mayors, to suspend the former and to revoke the latter by orders setting forth his reasons therefor, which reasons should only be for incompetency of the authorities or for illegality of their acts.

And such other powers as may be conferred upon him by law.

## ARTICLE 196.

The governors shall be subject to the executive and judicial powers of the nation. They shall be removable by the Government, and they shall be answerable to the supreme court for offenses committed in the exercise of their functions.

## ARTICLE 197.

The governor may call the national force to his aid, and the military chief shall obey his orders unless in contravention of other provisions made by the Government.

## ARTICLE 198.

In each municipal district there shall be established a corporation to be designated by the name of the municipal council.

## ARTICLE 199.

The municipal councils shall enact such resolutions and local regulations as may be necessary for the proper administration of the districts; they shall, in accordance with the ordinances of the assemblies, levy local taxes and determine local expenditures; they shall keep an annual register of the population; they shall take a census whenever required by law; and they shall perform such other duties as may be assigned to them by law.

## ARTICLE 200.

The mayor shall be the chief administrative officer in the district, and he shall hold the dual character of government agent and public authority.

## ARTICLE 201.

The department of Panama shall be subject to the direct authority of the Government, and it shall be administered by laws especially enacted therefor.

TITLE XIX.—*Of finance.*

Property and liabilities of the nation—General rules regarding taxation—Revenue and expenses.

## ARTICLE 202.

The following property shall belong to the Republic of Colombia:

(1) The estates, revenues, lands, valuables, rights, and shares that belonged to the Colombian Union on the 15th day of April, 1886.

(2) The uncultivated domain, mines, and salt works that belonged to the states the property in which now vests in the nation, without prejudice to rights acquired by third persons from the said states or held by the latter from the nation under title of indemnification.

(3) All mines, whether of gold, silver, platinum, or precious stones that lie within the national territory, without prejudice to rights acquired under previous laws by the discoverers and workers of either of them.

## ARTICLE 203.

The Republic shall be responsible for the foreign and domestic debts that have been recognized or that may be hereafter recognized, and for the expenses of the public national service.

The law shall determine the order and manner of satisfying these obligations.

## ARTICLE 204.

No indirect tax nor any increase of such tax already existing shall take effect within six months after the promulgation of the law establishing the same.

## ARTICLE 205.

No alteration in the customs tariff shall take effect within ninety days after the approval of the law enacting the same; and all increase or diminution of the import dues shall be divided into ten parts to take effect, in such decimal proportion, during the ten following months.

This provision and that of the preceding article shall not limit the extraordinary powers of the Government in any case in which it may be invested therewith.

## ARTICLE 206.

Each ministry shall every two years prepare an estimate of its expenditures and deliver the same to the treasury department, and the latter shall, from the estimates so received, prepare a general budget for the nation and submit it to the approval of congress, together with an estimate of the appropriations necessary to meet the national liabilities.

If Congress shall fail to provide for the expenses of the fiscal period of two years, the law enacted for the preceding period shall continue in force.

ARTICLE 207.

No expenditure of public money shall be made without the previous authorization thereof by Congress, by the assemblies of departments, or by the municipalities; nor shall any appropriation be diverted from the object for which it was made.

ARTICLE 208.

Whenever, in the judgment of the Government, the necessity arises for an indispensable expenditure, and the two houses should not be in session or the appropriation made should be inadequate, a supplemental or extraordinary sum may be added to the appropriation of the respective ministry. These supplemental amounts shall be authorized by the council of ministers upon proof of their necessity and after consulting with the council of state.

Congress shall legalize these authorized payments. The Government may petition Congress for appropriations in addition to those already made.

TITLE XX.—*Of the amendment of this constitution and the abrogation of the former.*

ARTICLE 209.

This constitution may be amended by a legislative act, discussed and adopted after three several readings in the usual manner by Congress, submitted by the Government to the next following legislature for its definitive action, and by it newly discussed and finally adopted by two-thirds of the members voting in both houses.

ARTICLE 210.

The constitution of the 8th of May, 1863, which is inoperative by reason of accomplished facts, is hereby abolished; and, in the same manner, all legislative provisions in conflict with this constitution are hereby repealed.

TITLE XXI (additional).—*Temporary provisions.*

ARTICLE A.

The first presidential term shall begin on the 7th day of August of the present year. On the same day shall begin the first constitutional term of the vice-president of the Republic and of the designated.

The first constitutional term of the councilors of state and of the attorney-general of the nation shall begin on the 1st day of September.

The new judges of the national supreme court shall take possession of their offices on the 1st day of September of the present year.

ARTICLE B.

The first constitutional Congress shall assemble on the 20th day of July, 1888.

ARTICLE C.

As soon as this constitution shall be adopted, the national council of delegates shall assume legislative functions and all others belonging to Congress or to either house thereof. Besides these functions it shall exercise that mentioned in article 77.

ARTICLE D.

Before the date fixed for the assembling of the first constitutional Congress the constituent national council shall exercise legislative functions whenever convoked in extraordinary session by the Government.

ARTICLE E.

The national council shall elect, by two separate votes, the members of the council of state whose election is provided for by the senate and house of representatives



respectively, and in each of these votes shall elect two persons. The person receiving the largest number of votes shall be declared a councilor for the term of four years, and the person receiving the next highest number of votes, for the term of two years. In case of a tie in the vote, it shall be decided by lot.

The two councilors whose appointment is provided for by the Government shall be elected at the same time, and lot shall be cast before the council of ministers to determine which of the two shall serve for four years and which for two years.

#### ARTICLE F.

In the performance of the duty n.º 2 of the council of state, that body may add to each of its sections one or two persons learned in the law. These persons shall cease to act as councilors on the 20th day of July, 1888.

#### ARTICLE G.

The revenues and taxes which had been established for the late states of the Union, shall continue the same for the departments respectively, as long as other provisions are not made by the legislative power.

The revenues which by late decrees of the executive power were intended for the national services shall be excepted from the foregoing provision.

#### ARTICLE H.

As long as the legislative power shall not provide otherwise, the laws existing in the several States shall continue in force in the respective departments. After the constituent national council shall have assumed the functions of a legislative body it shall at once proceed to enact a law in regard to the adoption of codes and the revision of national legislation.

#### ARTICLE I.

All laws of the late States that may have been suspended by the federal supreme court, and all laws considered by said court but not suspended by an unanimous vote, shall be referred to the council of delegates for its final decision thereupon.

#### ARTICLE J.

If before the enactment of the law referred to in article H any person should be tried for any of the offenses mentioned in article 29, the trial thereof shall be conducted under code of the late State of Cundinamarca, approved October 16, 1858.

#### ARTICLE K.

Pending the enactment of a law regulating the press, the Government shall be empowered to prevent and suppress the abuses thereof.

#### ARTICLE L.

All acts of a legislative character promulgated by the president of the Republic before the adoption of this constitution shall continue in force, even though in conflict herewith, until they be expressly repealed by the legislative body or revoked by the Government.

#### ARTICLE M.

The president of the Republic shall appoint, the first time, the judges of the supreme court and of the superior tribunals, and he shall submit such appointments to the approval of the national council.

#### ARTICLE N.

All permanent vacancies among the members of the national council, from and after the date of its becoming a legislative body, shall be filled by the governors of departments.

## ARTICLE O.

This constitution shall go into effect for the high national powers from and after the day on which it shall be approved, and for the nation thirty days after its publication in the Diario Oficial.

Given at Bogotá on the 4th day of August, 1886.

JUÁN DE DIOS ULLOA,  
*President of the Constituent National Council and Delegate for the State of Cauca.*

JOSÉ MARÍA RUBIO PRADE,  
*Vice-President of the Constituent National Council  
and Delegate for the State of Cundinamarca.*

SIMÓN DE HERRERA,  
*Delegate from State of Antioquia.*

JOSÉ DOMINGO OSPINA CAMACHO,  
*Delegate from State of Antioquia.*

JOSÉ M. SAMPER,  
*Delegate from State of Bolívar.*

JUAN CAMPO SERRANO,  
*Delegate from State of Bolívar.*

CARLOS CALDERÓN REYES,  
*Delegate from State of Boyacá.*

FRANCISCO MENDOZA PÉREZ,  
*Delegate from State of Boyacá.*

RAFAEL REYES,  
*Delegate from State of Cauca.*

JESÚS CASAS ROJAS,  
*Delegate from State of Cundinamarca.*

LUIS M. ROBLES,  
*Delegate from State of Magdalena.*

MIGUEL ANTONIO CARO,  
*Delegate from State of Panamá.*

FELIPE F. PAÚL,  
*Delegate from State of Panamá.*

GUILLERMO QUINTERO CALDERÓN,  
*Delegate from State of Santander.*

ANTONIO CARREÑO R.,  
*Delegate from State of Santander.*

ACISCLO MOLANO,  
*Delegate from State of Tolima.*

ROBERTO SARMIENTO,  
*Delegate from State of Tolima.*

JULIO A. CORREDOR,  
*Secretary.*

VICTOR MALLARINO,  
*Secretary.*

NATIONAL EXECUTIVE POWER,  
*Bogotá, August 5, 1886.*

Let it be obeyed and published.

J. M. CAMPO SERRANO,  
ARISTIDES CALDERÓN,  
*Home Secretary.*

VICENTE RESTREPO,  
*Secretary for Foreign Affairs.*

ANTONIO ROLDÁN,  
*Secretary of Finance, in charge of War Department.*

JORGE HOLGUÍN,  
*Secretary of the Treasury.*

ENRIQUE ALVAREZ,  
*Secretary of Public Instruction, in charge of Department of Public Works.*

## COREA.

No. 73.

*Mr. Foulk to Mr. Bayard.*

No. 256.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, November 25, 1885. (Received January 15, 1886.)*

SIR: I have the honor to report that the telegraph line reported in my No. 231, dated September 25 last, as being built to connect Seoul with Peking, was completed on the 20th instant, by the joining of the Chinese and Corean sections at Wichu (Ichow), a Corean town on the Amnok (Yahe) River. Thus by this line, and via Peking and Tientsin, Corea is in telegraphic communication with the outer world. Messages are received at the offices in Seoul and Chemulpho for all parts of the world.

The objections made by the Japanese representative to the Corean foreign office respecting the manner in which the construction of the telegraph line by China in Corea was arranged for, referred to in my dispatch No. 231, have taken the form of negotiations with Corea for the erection by Japan of a land telegraph line to connect Seoul with Pusan and Japan. These are progressing very slowly, however.

I am, &amp;c.,

GEORGE C. FOULK,  
*Ensign, U. S. Navy, Chargé d'Affaires ad interim.*

No. 74.

*Mr. Foulk to Mr. Bayard.*

No. 274.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, January 29, 1886. (Received March 25.)*

SIR: I would respectfully inform you that there has been recently much discussion here, involving the Corean Government, the representatives of England, Germany, myself, and the foreign residents at Chemulpho, in regard to the terms of the "agreement respecting the general foreign settlement at Chemulpho," a copy of which was transmitted to the Department with Mr. Foote's No. 95, dated July 21, 1884.

By this agreement upset prices of lots are fixed, and the lots may be sold at auction. The proceeds of sales of land are to be handed to the Corean authorities, who will furnish title deeds. Interpreting the agreement with considerations of the British treaty with Corea, upon which the agreement is largely based, the sites of foreign settlements shall be purchased from the owners and prepared for occupation by the Corean Government, and the treaty quoted reads: "The expense thus incurred shall be a first charge on the proceeds of the sale of the land."

More than a year ago the site for the general foreign settlement was marked out and partially prepared by the Corean Government. Some fourteen lots were taken up by German subjects, but thus far no title deeds have been issued. Many other foreigners of China and Japan came to Corea with the view of buying land at Chemulpho, but failed to do so, and returned after protesting against the terms of the agree-



ment, which they expressed as being extraordinarily exacting. The specially objectionable features were the high upset prices fixed by the agreement, and the limitations imposed in regard to qualities and costs of buildings to be erected on the lots purchased.

As there have not been any *bona fide* land-owners (no title deeds having been issued), no regularly qualified municipal council has been elected for Chemulpho. A provisional council has served until the present time, and the few expenses incurred by the settlement have been defrayed by voluntary subscription.

Recently the German subjects pressed the Corean Government for title deeds through their representative in Seoul, but in arranging for the payment of prices of their lots they vigorously protested against paying the whole amounts over to and to be retained by the Corean authorities, on the following grounds:

(1) That the Corean Government was entitled to only the amount of proceeds of sales of land it had expended in laying out and preparing the sites of the settlement; the balance was by agreement to be returned to the municipal council.

(2) There being no regularly elected municipal council, and as the expenses of the settlement have been defrayed by voluntary contributions of the foreign residents, the excess of the proceeds of land sales by the Corean Government above the amount spent by it on individual lots should be remitted. Purchasers should only pay to the Corean Government for their land exactly what it had spent upon the land prior to and in order to effect the sale of it, as provided for in the agreement.

The German representative asked the Corean Government to state the total amount expended by it upon the settlement in preparing the site. This amount he proposed dividing by the whole number of lots in the settlement, and to regard the result as the amount to be paid by the purchaser of any one lot in order to receive his title deed.

The Government stated it could not furnish an estimate of the whole amount spent by it in preparing the site of the settlement. It was then agreed by the Government and the representative of Germany that the German purchasers should give to the Corean authorities one-third of the full price at which they bought the land, receiving a receipt for the whole amount and their title deeds.

Mr. Budler, the German representative, frequently discussed this subject with myself and the English consul-general. He claimed that the fractional payment of the price at which the land was offered per agreement was in accordance with the agreement fully. While I admitted much reason for the light in which Mr. Budler viewed this method of payment, I stated that I should insist that in case American citizens should purchase lots at Chemulpho, they should pay the full price at which it was sold to them under the agreement; and that, to say the least, the fractional method proposed by him might establish a precedent tending to occasion difficulties in the future government of the settlement. Mr. Budler's estimate, agreed to by the Corean foreign office, that one-third of the proceeds of land sales under the agreement prices was sufficient to fully meet the expenses incurred by the Government in preparing the sites, seems to me to be ample, as I am aware that much of the land of the settlement was originally owned by the Government, having never been owned privately, and other expenses, as for the purchase of the remainder of the land, removing houses, marking out lots, &c., were but trifling.

It will be seen that Mr. Budler's method of payment is in a measure due to the statement of the Corean Government that it cannot furnish

an account showing its expenses incurred in preparing the settlement. This statement I am unwilling to accept, and hold that the Government is bound to keep accounts, and be able to furnish such as to show what it has spent on the site of the settlement.

I now learn that the Corean Government wishes to revoke the agreement made with Mr. Budler permitting the fractional payments of the agreement prices of land, and claims it is entitled under the agreement and treaties to retain the full proceeds of sales until their aggregate shall equal the whole amount expended by it in preparing the whole site of the settlement. Yet I have to remark that the Government is still unable to say how much it has spent upon the settlement. This view of the Corean Government, which is supported warmly by the English consul-general, is based upon the sentence of the British treaty, "these sites shall be purchased from the owners and prepared for occupation by the Corean Government, and the expense thus incurred shall be a first charge on the proceeds of the sale of the land." That this may be a correct interpretation of the agreement respecting the settlement there is no doubt, yet the agreement does not to my mind preclude the making of payments for land on the basis, in considering them, of individual lots and *not* the whole settlement, and this latter system would be immediately a benefit to the purchasers of land at Chemulpho, and at the same time operate fairly for the interests of the Corean Government, putting it to no loss or inconvenience.

As a summary of my views as to the payment for land purchased at Chemulpho, I would state that in case an American citizen desires to purchase a lot there, I should instruct him to pay through me the full price, per agreement, to the Corean authorities, from whom I should procure the title-deed. I should then cause the Corean Government to inform me as to the exact amount it had spent in preparing the lot for sale and occupation, this to be determined by dividing its expense on the whole site of the settlement by the number of lots in the settlement.

This amount the Corean Government should retain, and the balance of receipts from the American citizen as the price of his lot I should ask if necessary the Corean authorities to pay at once to the municipal council of the settlement, should there be such a council at the time; should there be no council, this balance should be paid to me, and if the expenses of the settlement are then being met by voluntary contributions of the foreign residents, as is now being practiced, I should feel it proper to return the balance to the American citizen, who will then own the lot.

I have already in the preceding shown that the general agreement in regard to the settlement is bitterly complained of. In framing it, Kobe, Japan, was taken as the model oriental foreign settlement; it was framed entirely, with only passive consideration, apparently, by other foreign representatives, by the English consul general, Mr. W. G. Aston. In my opinion, its terms are such as to have greatly retarded the growth and prosperity of the settlement. It is true that the same terms of agreement have worked well at Kobe, but I think that the fact has been overlooked in applying them to Chemulpho, that Kobe is a later port in Japan, that Yokohama and Nagasaki had already, when Kobe settlement was planned, absorbed the smaller traders long since, and that these had at those places grown into merchants of capital, some of whom could take up their residence and trade in large establishments at Kobe, under the exacting terms of that municipality. Chemulpho is the first port of Corea which has been prepared to receive foreigners, and the pioneers who would settle there are in most

cases merchants of small means, who are shut out from profitable trade in China and Japan; and again, even firms with capital do not care to invest largely in the experiment of conducting trade in so new and unknown a country as Corea. The agreement is advantageous to the wealthy English firms in the East, in that it preserves a clear field for them to take up and absorb the trade of Corea the instant the time shall come for them to do so; this may account for the vigorous support given it by the English representatives in Peking, Seoul, and Tokio. By all other persons it would appear to be strongly and unfavorably criticised.

As yet the Russian representative has not signed the agreement, the signers of which are, to date:

The Korean Government,  
The German commissioner (since relieved),  
The United States minister,  
The German minister (Sir Harry Parkes).

The German representative is strongly urging a revision of the agreement, and in view of this and the objection to the agreement expressed on all sides, I have thought it well to address the Department, as by this communication, and request instructions to apply in case revision is decided upon, or in case the agreement is to continue in operation as well.

I am, &c.,

GEORGE C. FOULK,  
*Ensign, U. S. Navy, Chargé d'Affaires ad interim.*

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No. 75.

*Mr. Foulk to Mr. Bayard.*

No. 275.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, February 1, 1886. (Received March 25.)*

SIR: I have the honor to submit the following report of an attack by Chinese subjects upon the Korean customs officers at Chemulpho on the 25th and 26th ultimo.

It appears that some time since the customs officers at Chemulpho received word that a discharged telegraph operator, a Chinese, was buying up quantities of red ginseng in Corea; and again they learned recently that a large quantity of red ginseng was about to be sent from Seoul to Chemulpho. In anticipation of an attempt of the Chinese to smuggle this red ginseng out of Corea through Chemulpho, they increased their watchfulness, and it would appear that by the 25th ultimo every avenue of escape of the ginseng had been closed at Chemulpho.

For several days before the 25th, parties of Chinese had been coming down from Seoul, many of them to take passage for China aboard the Chinese gunboat Ching Hai, which was to sail on the morning of the 26th. These civilian passengers were furnished with passes to go in the gunboat by the Chinese consul at Chemulpho. Among them was one Ling, who was suspected of being the leader in the case of ginseng smuggling at hand. \* \* \* In all, upwards of twenty Chinese subjects were to take passage on the gunboat.

On the afternoon of January 25 the commissioner of customs at Chemulpho went to the Chinese consul there to confer with him in regard



to the right of the customs officers to make search of effects of persons to sail in the Chinese gunboat, such search having been protested against by the Chinese on various grounds, chief of which was that they had passes from the Chinese authorities to take passage in her, and she was a Chinese naval vessel. While this conference was in progress one of the customs officers learned that a large quantity of ginseng had already been placed on board the gunboat, and that a further quantity was to go on board during the evening. A little later, about 5 p. m., he heard that a determined attempt—to involve fighting if necessary—would be made by the Chinese in combination that evening to get their ginseng off to the gunboat.

At about 7 o'clock, a Chinese was stopped at the custom-house on his way to the beach, by a Korean watchman, whom the Chinaman promptly struck. An American of the customs service, Mr. Charles Welch, went to the rescue of the watchman, and led the Chinaman to the general office, to retain him there until the commissioner returned. The Chinaman called out for assistance, and was heard over the Chinese settlement, which is close by. In a few minutes Mr. Welch was set upon by eight or nine Chinese, the leader being Ling. He was cuffed and beaten, but escaped without serious injury.

At the same time the customs offices were filled with the Chinese who were in the settlement, whose manner was threatening and excited. A secretary of the consul, who was present, warned the customs officers, most of whom were foreigners, to escape from the offices, as an attack was about to be made. They had hardly gotten clear of the rooms when the mob began to demolish the furniture. The windows were smashed, and the room and part of the building made a wreck. The customs officers having been driven away, the custom-house was left in possession of the Chinese, with a clear field to dispose of their effects as they willed. The Chinese consul appeared later on the scene, and summoned twelve sailors from a Chinese gunboat in the harbor. The Chinese mob then dispersed, and the Chinese sailors remained to guard the custom-house during the night with several of the customs officers who had returned to their post.

On the following morning the entire Chinese community united in a demonstration against the customs foreign employés, which was shown by their closing their places of business, one of which is a hotel at which the customs officers take their meals. The English vice-consul vigorously enjoined the Chinese consul to take steps to suppress the disorder, and the latter issued a proclamation, a copy of translation of which I inclose. In this the people were directed to open their shops, which was done. On the morning of the 26th the guard of sailors was relieved at the custom-house by one of Chinese marines.

It would appear that on the morning of the 26th Ling, with others of the Chinese who had come from Seoul, was actively engaged in fomenting further trouble. \* \* \* At about 11 a. m. a party of the riotous Chinese went in search of a Korean customs watchman, and utterly destroyed a watch-house on the beach. As there was every appearance of further trouble, in case of which it was believed the Chinese guard of marines would be useless or inefficient, Mr. Stripling (English), the commissioner of customs, urgently requested of Mr. Parker the use of a guard of English marines from the Swift, then lying in port, to protect the customs. Acceding to this, the English marines were summoned by Mr. Parker rather for the protection of the English consulate. They had not yet arrived, when the Chinese again closed their shops and gathered in a threatening body at the customs-house, the

Seoul Chinese being the leaders. At this time a serious affray was only prevented by the endeavors of the customs officers to prevent the Chinese marines from firing into the mob. At the most critical time the English marines approached on their way from the Swift. This had the effect of quieting the mob, which slowly dispersed.

With this the affair was practically ended, though many threatening rumors were current for several days.

The gravity of the affair as a lawless demonstration, involving acts of violence on the part of a community of Chinese subjects against an institution of Corea, was fully brought to the notice of the Chinese authorities at Chemulpho and in Seoul by the foreign representatives.

The Chinese consul at Chemulpho was summoned to Seoul, and brought with him a number of the riotous Chinese. Mr. Yuen at once began a trial, which was attended by Mr. Merrill, the chief commissioner of customs of Corea, and Mr. Welch, the customs officer who had been assaulted. After a few hours' deliberation Mr. Yuen, the Chinese representative in Seoul, announced the trial ended, and that four Chinese were convicted and would be severely beaten, and deported. These Chinese had taken a wholly insignificant part in the affair, while the head, Ling, and other leaders in the affair, had been exempted from punishment. During the trial so marked a disposition of the Chinese court to screen these leaders was shown, that Mr. Merrill despaired of obtaining justice and left the court, and telegraphed an appeal to the viceroy, Li Hung Chang.

This appeal would appear to have been effective, for on the following day a rehearing of the case was held by Mr. Yuen, from which resulted the conviction of the six principal actors in the affair, including Ling, and their sentence of deportation from Corea; while an order was issued to cause the Chinese community at Chemulpho to make good the damage committed on the customs-house. It was shown conclusively that the customs officers had simply done their duty, and were clear from any charge whatsoever against them. \* \* \*

After the first hearing of this case by Mr. Yuen, the president of the foreign office ordered a Korean watchman of the customs to be severely punished, doubtlessly at the instance of Mr. Yuen. Mr. Merrill vigorously protested against this, and caused the order to be revoked. \* \* \*

This outrage upon the Korean customs partakes strongly of the character of a protest on the part of the Chinese community in Corea against their being required to pay duties to Corea or subject themselves to the customs laws in other respects. \* \* \*

The recent disturbance at Chemulpho, as based upon attempts to smuggle red ginseng, has already given rise to discussion as to the expediency of making new regulations relative to the red ginseng export from Corea. At present the export is wholly forbidden under the treaties, and the whole crop of red ginseng is carried to China by the annual Korean embassy overland, the greater part to be sold in Peking. Ginseng can only be cured to become "red ginseng" by the agents of His Majesty the King of Corea at Songto. A part of the crop is given to the embassy to China as compensation for services; the balance is the exclusive property of the King. The whole crop is estimated at about 1,000 piculs, the highest estimate of revenue being \$240,000. A tax is collected on the ginseng farms at Songto and on the ginseng in transit to China at Oiju, the aggregate of these taxes being commonly reported as sufficient to meet half the expenses of the Government. Ginseng has a fabulous value as a medicine to the Chinese, and attempts to smuggle it are only to be expected. The difficulties of preventing

this, under the present system of management of the crop, would seem to be almost insurmountable. It has been proposed that the export of it be permitted at the open ports under high duties.

I have, &c.,

GEORGE C. FOULK,  
*Ensign, U. S. Navy, Chargé d'Affaires ad interim.*

[Inclosure in No. 275.]

*The consul of Jenchuan and appointed prefect of Ta-min-ho-li.*

This is to notify that last night the examiners and others of the custom-house, relying on their brutality, ferociously wounded our merchants and others, for which I have already reported the circumstance to his excellency Yuen. Who are right and wrong will be decided by public opinion, and his excellency himself has the power to judge.

The merchants and others should await quietly the inquiries and do their business. Now, I have learned that the merchants and others, for reason of the bad treatment they have received, want to stop business—which must not be done. To this effect I issue this proclamation, to invite the merchants and others to continue business as usual to-day, and carefully attend to this.

11 year, 12th moon, 22d of Kuang Hsu.  
(January 26, 1886.)

No. 76.

*Mr. Foulk to Mr. Bayard.*

No. 280.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, February 20, 1886. (Received April 7.)*

SIR: I have the honor to submit the following information relative to Korean affairs.

On the 6th instant a decree was issued by His Majesty abolishing the hereditary transmission of slavery in Corea and the guilds for furnishing labor of slaves to the palaces and Government offices. Korean slavery is of a very mild form, though as an institution it is very ancient. Its origin and existence would seem to be due to poverty, which has driven people—more particularly women—to sell themselves into the households of the rich. Slaves have had very generally the right to buy their freedom, and are treated fairly well, being considered as an actual part of the household to which they belong. In regard to slavery in Corea, there have been few, if any, of the horrors attending slavery in the United States. There has been no trade in slaves, and the system would appear to be rather an expansion of the practice to be observed even in Christian countries, of taking persons into families for life servants. Mild as the form of slavery is, it binds down to a low and contemptible state a large class of people and perpetuates it, while, in addition, there occur instances, but occasional, it is true, of persecution and glaring evil in other forms.

The decree of His Majesty is very happily received, but its effects will only become apparent when there shall have been established new industries, which His Majesty hopes for, to give employment to the slaves and means of raising them out of their state of poverty. The decree is the voluntary act of His Majesty, and is only one of the positive indices of his great and commendable desire to raise his people in the lines of Western civilization.



The winter has been an unusually severe one, and there has been much suffering in the mountainous districts of the northeast provinces. His Majesty has caused considerable sums of money from his private purse to be distributed among the sufferers, and the revenues of a number of districts have been remitted in whole or in part.

His Majesty is about to issue a decree by which the government of Seoul is to be reorganized. A census is to be taken, houses numbered, police provided, and regulations for the improvement of the streets, conduct of the citizens, &c., made. This work has been commenced.

The measures are of a mild form and bid fair to be carried out. The system is later to be extended to other cities in Corea.

\* \* \* \* \*

The Government has supplied the necessary funds, and assistance in other respects, to establish a school of medicine and chemistry in connection with the hospital in charge of Drs. H. N. Allen and J. W. Heron, Americans, of the Presbyterian Mission Board. This school will shortly be opened. At the request of these gentlemen and of the Rev. H. G. Underwood I have secured the full assent and thankful approval of the King and Government of Corea to their opening an orphan's home and industrial school in Seoul.

\* \* \* \* \*

I am, &c.,

GEORGE C. FOULK,  
*Ensign U. S. Navy, Chargé d'Affaires ad interim.*

No. 77.

*Mr. Foulk to Mr. Bayard.*

No. 281.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, February 20, 1886. (Received April 7.)*

SIR: By this mail I send to the Department a package containing specimens of the plain and cured cultivated ginseng of Corea, that ordinarily used, the former in Corea and the latter in China, and inclose herewith a note of information on ginseng.

I am, &c.,

GEORGE C. FOULK,  
*Ensign U. S. Navy, Chargé d'Affaires ad interim.*

[Inclosure in No. 281.]

*Note on Corean ginseng.*

The ginseng of Corea, as ordinarily spoken of, is cultivated. It is of two kinds named by color red ginseng (Hong-Sum) and white ginseng (Pak-Sum), both kinds being the same root.

White ginseng is the plain root washed and dried. It is superior to the red ginseng to Coreans, who say that the process of curing preserves but reduces the strength of red ginseng.

White ginseng is abundantly sold in Corea and enormously used as a strengthening and blood-purifying medicine. Red ginseng is cured white ginseng. By law it can only be cured by the Government at one place. The curing is a process of steaming and prolonged drying, which solidifies the white root and changes its color to a fleshy pink. When broken red ginseng presents a glassy, brittle section. Red ginseng is

not an article of ordinary trade, and may not be exported under the treaties of Corea. The whole crop is carried to China by the annual embassy, and the proceeds of sales belong to the King personally.

From personal experience and observation I am assured that Corean ginseng is an active, strongly heating medicine. It is most commonly taken in the form of a concentrated infusion. The fresh root is sliced and eaten with honey. The use of it must be attended with caution. It often produces boils and eruptions, sleeplessness, and flushing of the body, and other temporary derangements of the system in the course of its purification. Coreans say that but ten out of every hundred persons in their own country may use ginseng without the above-described effects, but say also that in every case the use of ginseng is beneficial, as purifying and strengthening.

The best ginseng is the wild root, of and above thirty years' growth. Such commands a fabulous price, and is not ordinarily obtainable, nor ever in the market.

Western people appear to regard the virtues of ginseng claimed by Orientals rather contemptuously, as imaginary and based on superstition; the evidences are that the mystic value attached itself to ginseng after its virtues had been practically ascertained.

Of the specimens sent herewith, those of white ginseng are very good. Those of the red ginseng have a yellowish color, which ought not to be shown in the very best red ginseng. However, they show near the extremities of the roots the right color.

Information as full as any yet known to Western foreigners on the growth and curing of ginseng will be found in my report of a journey in Corea, submitted to the Navy Department through the Department of State in October, 1884. I have since then heard it remarked that in curing sometimes cold water is dashed upon the ginseng at the end of the steaming.

GEORGE C. FOULK,  
*Ensign U. S. Navy, Chargé d'Affaires ad interim.*

No. 78.

*Mr. Foulk to Mr. Bayard.*

No. 286.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, March 20, 1886. (Received May 27.)*

SIR: I have the honor to forward herewith inclosed a report of notes on mineral products of Corea prepared by myself. Considerable interest is manifested in various ways in the East in regard to the mineral resources of Corea, and that of Western capitalists is likely to be drawn to the subject at some future day.

These considerations have prompted my submitting the inclosed report, which, though deficient in accurate statistics and but a general statement, contains, I feel assured, the bulk of such information as is yet obtainable in Corea.

Several localities are about to be examined for gold and silver by a German chemist in the service of the Corean mint, now being established. His examination will probably give more accurate results than have been heretofore obtained.

I am, &c.,

GEORGE C. FOULK,  
*Ensign U. S. Navy, Chargé d'Affaires ad interim*

[enclosure in No. 286.]

*Report on mineral products of Corea.*

The only practical effort to work mines in Corea that has been made as yet by Western foreigners was that of Messrs. Jardine, Matheson & Co., a wealthy commercial firm of China, in 1883-84. This firm, after negotiations with Mr. P. G. von Mölendorff, who then served as general adviser to the Corean Government, sent a

well-equipped party of foreigners and Chinese into the country from Seöul in the winter of 1883 to make an examination, with the view of securing mining concessions in case minerals were found in paying quantities. The party established a camp or two and remained in the country, its members making frequent individual visits to Seoul and Chemulpho, until about August of 1884.

Early in the spring of 1884 the firm established a head office at Chemulpho, moored a large hulk in the harbor there, and started a steamer to ply between the port and Shanghai. From this it is to be inferred that the company expected great results.

The party at work in Corea began their examination near Seöul, and continued it thence in a northerly direction until it came to the main chain of the coast mountains to the south of Wonsan (Gensan). It may be said the examination was entirely confined to a narrow belt of territory lying to the north of Seöul, between the northern tributaries of the Se öul River and about 100 miles long.

From first to last the work of examination was attended with great difficulties. The poor accommodations for living in the interior of Corea, the severity of the winter, the wretched roads, and wild, mountainous character of the district, ignorance of the language and customs of the people, distrust of the natives, most of whom had never seen or heard of Western foreigners—such were natural enough obstructions. But in addition to these it is quite evident that the company did not have the support and assistance of the Government in its work, and that Mr. von Mölendorff alone conducted the examination for Corea, without the Government's having much, if any, voice or interest favorable to the success of the examination. The geographical, social, and political conditions of Corea are such, that without earnest governmental encouragement and direct assistance success cannot attend any great venture in the country.

It is significant to note that the district examined by Messrs. Jardine, Matheson & Co. is one of the very few *not* generally described by Coreans as rich in minerals.

In March, 1884, it was made known that galena had been discovered by the party in Yöng Phyöng prefecture, but the silver was so small in amount that work would only pay by using extensive reducing machinery. But no traces of coal were discovered. Full reports of the work were not published, yet it is generally believed the results of the examination are known. The following notes are taken from an English Blue Book, containing a translation of an article written by a Chinese who was with the party.

#### LOCATION OF DEPOSIT.

Gold is reported to be found at Hakwa-U and San-Kwa-U, two places about 3 miles apart, the first  $1\frac{1}{2}$  miles from Yang tök prefecture, and gold was obtained from these places in 1833.

Silver was found in Yöng Phyöng prefecture, about 40 miles from Seöul, in small quantities (in galena). Lead was plentiful. Absence of coal, remoteness from the coast, and bad transportation, &c., preclude working these mines at present.

Copper mines which have been worked by Coreans were found at Ni-shil-tong, in Yang-tok valley, and also at a place about 8 miles eastward of Kinewha prefecture. Copper is mined also at Chöng-nö, near the boundary of Kum Soüg prefecture, and the yield is reported as fair.

At Sokok, some 20 miles beyond Kum Soüg, a copper mine in a deep gorge is reported.

Lead was being mined by Coreans in two mines 800 and 500 feet deep, near Sokok, some 50 to 60 pounds only per day being produced; the yield is sold at Sokok.

Silver is found in the lead ore of Tang Hyöng. It is reported that there are iron and copper mines at Chilhimto, Yöng Phyöng, Kim-wha, and Kum Soüg which will bear working for thirty or forty years and produce paying quantities. No traces of coal were found.

In June, 1884, Messrs. Jardine, Matheson & Co. sent an expert mining engineer to join the party in Corea. He made several visits of inspection along the line from Se öul to Wonsan and visited some districts outside of the belt in which the party had been working.

His examinations were very superficial, and he returned to Seöul unable to show any very satisfactory results. During the summer of 1884 gold dust and nuggets were very plentiful in Seöul, and I am certain that this engineer endeavored to buy specimens of Corean gold in Seöul, that he might take them to the head office of his employers in lieu of those he had not been able to find himself.

At about this time the company sent to its camp in the neighborhood of Yang-tök an American named James Graham, a seaman by profession, who had mined in California. This man kindly treated the natives, and set his few coolies to work at panning in some rice-fields. He at once produced gold in considerable specimen quantities in dust and large rounded nuggets. He returned to Seöul very soon and made his report. Graham, who had once served with me on board the United States



steamer *Monocacy*, exhibited his find to me—a packet of dust and nuggets worth about \$400. He described to me the locality in which he had been working as very rich in gold, and stated that pumps only would be needed to make the yield of washing in the Yang-tök valleys very valuable.

While he was at work in the rice-fields an officer came to complain that he was drawing water from the fields and otherwise injuring them. Upon this he stopped work at once.

Promptly upon the receipt of Graham's report Messrs. Jardine, Matheson & Co. began negotiations with Mr. von Mölendorff to get a franchise of mining rights. He failed, however, to produce it, and the Government now began to show much interest, perhaps surprise, in Messrs. Jardine, Matheson & Co.'s venture. The firm endeavored to secure rights by other means, but failed in every instance. It finally abandoned its intentions to work mines in Corea, and removed its office, the cargo, hulk, and mining party from Corea towards the close of 1884. In the following spring Graham endeavored to secure a position under the Corean Government to enable him to work gold washings for it.

#### MINING PRIVILEGES.

There is no doubt whatever that in China and Japan it is believed that Corea is rich in minerals, and more particularly gold. Yet it has been the rule heretofore for the natives of those countries to present the most disparaging reports of Corea. At the same time it will be observed that Japanese and Chinese are crowding into Corea with all dispatch, and forming colonies where permitted. Their trade is always increasing, and inasmuch as the exports of Corea are few and poor, while Chinese and Japanese imports are considerable, and that Corea has no coinage or currency acceptable abroad, it follows that there must be a constant and considerable flow of the crude precious metals of Corea into Japan and China.

In the autumn of 1885 the Chinese commissioner in Seoul and his assistant made application for mining rights in Corea to the King.

They proposed sending to the gold districts of the country gangs of thirty to forty Cantonese Chinamen who had mined in the United States. Twenty per centum of the net profits in gold was to be the share of the Corean Government.

The application failed abruptly, and was regarded as being very extraordinary in the terms. At about the same time certain Germans made application for mining rights, but were asked to wait until "next year" for its consideration. It has been several times stated by the Corean Government that it is not prepared to consider propositions in regard to mining, but will do so when it shall have secured competent foreign advisers for its service. The disposition of the Government is to guard its mines jealously, and to be the actual proprietor of them in case they are to be developed after the Western methods of working.

#### POSITION OF MINES.

All Coreans proclaim here that there is much gold and other mineral wealth in the country. From very ancient times gold and other mines have been worked in Corea, and their localities are widely known. It is a great mistake to suppose that Coreans are ignorant of the localities of mineral products of their country. There is probably no country in the world where the mass of the people are better acquainted with the geography of their own land than Coreans.

The excellence and great number of maps to be found is very remarkable. There are, in even the smallest village, maps on large scales and showing minute details of their localities. The localities of all the principal products, natural or manufactured, are well known to even the children of ordinary intelligence.

Phyông-an province is generally spoken of as richest in gold, the chief locality being Yöng-wön, a remote inland town, where gold has been produced from very ancient times.

In Ham-Kyöng province (N. E.) at Yöng-hung there are from twelve to twenty washings, which are now the most productive in the country. This place, Yöng-hung, is but a few miles north of the treaty port of Wonsan (Gensan), whence the largest part of Corean exported gold is carried in Japanese steamers. The Japanese evince a very hearty interest in these mines.

The following nine places are noted from ancient times as gold mines:

| Province.              | Prefecture.             | Province.             | Prefecture.             |
|------------------------|-------------------------|-----------------------|-------------------------|
| Kyöng-sung (southeast) | Kyung-chü.<br>Söng-chü. | Whanghai (west)       | Chang-yöun.<br>Söng-wä. |
| .....                  | Wi-söng.                | Phyöng-an (northwest) | Yöng-wön.               |
| Ham-Kyöng (northeast)  | Yöng-hung.              | Chöula (southwest)    | Kumku.                  |
|                        |                         | .....                 | Imshil.                 |

During the fall of 1865 the Government sold permits to private individuals to work at these places for a period of five months, a small percentage of the gold to be presented to the Government. It would appear that the Government has never worked for itself continuously any gold mines. Referring to the mines at Yöng-hung, which are often visited by Japanese, the director of the engineering association of Japan, Mr. Ito Yajiro, writes as follows: \* "Yöng-hung, in Ham-Kyöng Do, has 12 gold mines (one of which, however, is closed, owing to its proximity to a royal tomb), and in these 5,600 laborers are (now) employed.

"The exact amount of the output of these mines cannot be ascertained owing to the defectiveness of official regulations. It is known for certain that the miners present to the Government, and to some of the public officials, gold obtained, at the rate of 60 per cent. for the former and 30 per cent. for the latter, amounting to 50,400 pounds a year, but any quantity obtained beyond that weight is sold secretly by the laborers." It has been stated to me that at present (March, 1886) the Government receives about 30 *nyang* † of gold per month from the Yöng-hung mines.

The winter has been very severe, and the work could not be carried on at the eight other places stated above to have been farmed out by the Government in the autumn of 1885.

‡At Unsan, in Ph्यों-an Province, there is said to be large deposits of gold dust some five or ten feet under the surface of the ground, but the quantity of metal to be obtained is too small to make the work of the Coreans profitable.

"Silver is found in Kyöng kui, Chhung-Chhông, Chöula, and other divisions, but is not commonly worked. Whenever officials travel to Peking a quantity of silver is dug from the mines, one-half of which is worked into bars and the remainder retained as treasury reserve, and 2,000 pounds are given to each ambassador to the Chinese capital.

#### OTHER MINERALS.

"Copper mines, though found here and there in Kyöng kui and Kyöng-sung provinces, are only occasionally worked, when there is a demand for copper coins or when the ore is in demand for commerce. The annual output is estimated at five or six thousand pounds.

Two or three good veins were discovered in Ph्यों-an Province many years ago. Iron of a superior quality is obtained in all but the two northern provinces.

Coal is found in large quantities between Hamhung and On-Söung in Ham-Kyöng Province, and one or two veins are exposed in Kyöng-sung Province. Nothing is yet known as to the continuity of these veins, but the outcrop bears a slight resemblance to those of Chikuzen (Japan). The total amount of gold and silver exported from 1881 to 1884 from the treaty ports is as follows:

[One yen is about \$1 silver.]

| Port.           | Gold.        |                  | Silver.       |               |
|-----------------|--------------|------------------|---------------|---------------|
|                 | Weight.      | Value.           | Weight.       | Value.        |
|                 | Pounds.      | Yen.             | Pounds.       | Yen.          |
| Pusan .....     | 979. 7273    | 245, 019. 203    | 2, 953. 7605  | 50, 814. 703  |
| Wonsan .....    | 4, 468. 7737 | 1, 355, 258. 218 | 1, 702. 8550  | 39, 898. 889  |
| Chemulpho ..... | 1, 091. 1610 | 284, 755. 770    | 14, 023. 6280 | 296, 955. 852 |

The number of mines is as follows:

| Province.           | Gold. | Silver. | Copper. | Iron. | Coal. | Lead. | Precious stones. |
|---------------------|-------|---------|---------|-------|-------|-------|------------------|
| Kyöng Kui .....     | 3     | 1       | .....   | 2     | ..... | ..... | 2                |
| Chhung-Chhông ..... | 4     | 1       | .....   | 6     | ..... | ..... | 2                |
| Ham-Kyöng .....     | 16    | 2       | 4       | 4     | 7     | 1     | 1                |
| Whanghai .....      | 9     | .....   | .....   | 5     | ..... | ..... | 1                |
| Kangwön .....       | 14    | .....   | 3       | 6     | ..... | 4     | 2                |
| Chöula .....        | 9     | .....   | .....   | 4     | ..... | ..... | 1                |
| Kyöng-sung .....    | 17    | .....   | 7       | 10    | 2     | 1     | 3                |
| Ph्यों-an .....     | 19    | .....   | 3       | 3     | ..... | 1     | 1                |

\* Taken from a published collection of notes in a report.

†A *nyang* is a weight equal to 1.2 ounces. One *nyang* of crude gold dust of average quality is now worth about \$21 Mex.

‡ From here to end of table of mines is culled from Mr. Ito Yajiro's report.

From Mr. Ito's report it would appear that the exports of crude gold and silver from Corea are as follows from 1881 to 1884: Gold, 3,785,033.191 yen; silver, 387,769.444 yen; making an average in round numbers of \$1,200,000 worth of each metal per year.

#### MINING METHOD.

Corean methods of working gold mines are very primitive. The tools employed are of the simplest kind, and are only those for washing out the gold from the soft earth of the valleys. Quarts has probably never been worked.

Quicksilver is somewhat used in collecting gold after washing. It may be, however, that gold will for many years be best obtained by washing in the valley.

The country presents the evidences of very great geological age, and the hills are very generally in great areas, made up of decomposed granite and other rocks washed down into long, low foot-hills.

Tunnel mines are known to be in existence, more particularly in the northern provinces. Some are said to be very deep, and their ventilation so bad that miners cannot remain in them any length of time.

Mining laborers are said to number 60,000.

Iron is said to be very abundant at Chai-ryōng, in Whanghai Province.

Coal has been found recently in large quantities and in fair quality in Ph'yōng-an Province, near the capital city, Peng-yang, and on the banks of the Tatong River. This locality, which may be described as that of the mouth of the Tatong River, would seem to present some valuable features as a field for western enterprise.

The river is navigable for quite a distance. Near it are the two celebrated gold districts of Whanghun Province, and on it not far from these mines is the large coal deposit above referred to. The neighborhood is well populated, and is reported to be thrifty in many ways.

#### FUTURE PROSPECTS.

As yet no competent mining engineer, geologist, or mineralogist has made examinations in Corea, either privately, or under the patronage of the Corean Government, from whom statistics as to mineral riches may be obtained. While the question is an open one, as measured by the absense of statistics, the evidences we have, such as they are, go to show that Corea as a field for mining enterprises will attract much attention in the future, and may prove to be much richer in mineral products than she has been represented by her neighbors.

It is very possible that belief in Corea's great mineral riches is a factor in the cause of the embarrassing political situation the peninsula is placed in between China and Japan, and this embarrassment may be very greatly augmented should such a belief take root in the European nations whose interests have already been drawn politically towards Corea.

GEORGE C. FOULK,

*Ensign, U. S. Navy, Charge d'Affaires ad interim.*

UNITED STATES LEGATION,  
Seōul, Corea, March 20, 1886.

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No. 79.

*Mr. Bayard to Mr. Parker.*

No. 8.]

DEPARTMENT OF STATE,  
Washington, April 28, 1886.

SIR: I have received Mr. Foulk's No. 274, of the 29th of January last, in relation to the difficulties that have been encountered in the organization and establishment of the general foreign settlement at Chemulpho.

The attempt to organize a foreign settlement there has been made, as you will find, under an agreement with the Corean Government, which has been signed by the representatives of the United States, Great Britain, and Germany, in Corea, and of which a copy was transmitted to this Department with Mr. Foote's No. 95, of the 21st of July, 1884.



Under that agreement the Corean Government undertook to cause all Corean houses within the limits of the settlement to be removed within a specified time, and to prepare the land for sale to the citizens or subjects of the signatories. The upset prices of lots were fixed, and it was agreed that they might be sold at public auction.

It was further agreed that a yearly rental of a certain sum per 100 square meters should be charged on each lot, according to the class to which it belonged; that of this sum 30 cents per 100 square meters should be retained by the Corean Government, and that the remainder, together with any balance left from the proceeds of land sales, after deducting therefrom the cost to the Government of the preparation of the lots for sale, should belong to the municipal fund.

This fund was to be under the control of a council, to which the police power of the municipality was committed, and the council was to consist of a Corean official, the consuls of the signatory powers, and three registered land-holders who, were "to be selected by the other registered land-holders."

The settlement was marked out by the Corean Government more than a year ago, and about fourteen lots have been taken up by German subjects, but as yet no title deeds have been issued. And as there are thus no registered land-holders, no council has been elected.

This delay in the organization of the settlement seems to be due, in part, to the failure of the Corean Government to keep any account of the expenditures made in the preparation of the land for sale and occupation. It was proposed to the Corean Government by the representative of Germany to divide the whole cost of preparation by the number of lots, and to treat the result as the amount to be paid to the Government by the purchaser on each lot. But, as no account of the expenditures had been kept, no such arrangement could be effected, and it was then agreed that the German purchasers should pay to the Corean authorities one-third of the full price of the lands, receiving therefor a receipt for the whole amount and their title deeds.

This arrangement the Corean Government now desires to undo, claiming the right, under the original agreement, to receive and retain all the proceeds of the sale of land until the aggregate shall equal the amount expended in preparing the whole site of the settlement.

To this contention there are two objections: the first being the fact already adverted to, that the Government is unable to tell how much it has spent on the settlement, and the second that such a course would leave nothing immediately available from the proceeds of the sale of lots for the use of the municipality.

These complications seem to make it expedient to endeavor to effect some revision or amendments of the agreement on terms as favorable to the purchasers as can be obtained, at the same time taking care to protect the interests of the municipality as a whole. A fair basis for such an arrangement would seem to be a division or apportionment of the price of each lot purchased between the Government and the municipality, allowing to the former the average cost of preparation, or a sum agreed upon as equivalent thereto, and turning over the balance of the purchase-money to the latter.

Until some definite arrangement shall have been made, the course recommended by Mr. Foulk in his No. 274, in case an American citizen should desire to purchase a lot, may be adopted with the concurrence of the Corean Government.

I am, &c.,

T. F. BAYARD.

## No. 80.

*Mr. Foulk to Mr. Bayard.*

No. 300.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, May 7, 1886. (Received June 16.)*

SIR: Supplementary to the report upon mineral products of Corea, transmitted with my No. 286, dated March 20, 1886, I beg to submit the inclosed copy of a letter received by me from Mr. C. A. Welch, an intelligent American gentleman in the service of the Corean customs.

I have, &amp;c.,

GEORGE C. FOULK.

[Inclosure in No. 300.]

WÖNSAN, April 23, 1886.

I send you herewith all the statistics of the gold produced and exported from this port and district, covering a period from November, 1883, to the 18th of the present month.

During the months of November and December, 1883, the value of the gold exported from this port was \$28,920. Previous statistics are unattainable, but the amount exported from the opening of the port is said to be very great. The total value of the gold exported during the year 1884 was \$110,265. The total value exported during 1885 was \$357,148. The value of the gold exported from the first of the present year to the end of March was \$89,641, while the amount sent away in one steamer this month (18th instant) was \$21,559.

These statistics, of course, do not account for the gold carried overland to Seoul, or for that which is taken north over the boundary, the value of which is said to be very great.

Nearly all the gold exported from here is produced within an area of 60 miles from the port.

The method employed by the Coreans in washing the gold is very primitive, and a great deal of the fine gold dust is lost. All the gold exported from here is alluvial, and I have not been able to satisfy myself yet that any other than surface gold is mined in this country, although I have seen a fair sample of gold-bearing quartz, and have been told by the natives that "stone gold" is produced in the northern part of this province, from which the gold is extracted by a crushing and washing process.

The number of people working last year in the gold fields is estimated at ten thousand, which was far above the average, and is accounted for by the fact that more people were allowed to go to the fields on account of the bad harvest, and which may possibly account for the increased amount of gold exported as compared with previous years.

There seem to be several different methods of obtaining mining grants. In some cases the miners appear to hold the claims by a payment of a fee, while in other cases the gold appears to be purchased by officials appointed for the purpose at a fixed tariff. Of this, however, I am not certain; it is very hard to get any reliable information from the natives in relation to gold.

The principal mining place in this district is near the city of Yung-Hung, about 40 miles from this port. However, gold appears to be found in considerable quantities in many parts of this country, noticeably on the Yumen River. Reliable information in regard to the quantity produced, however, cannot be obtained.

Gold is also found near Fusan, at Ma-san-pho, in fair quantity. The same difficulty has to be borne there as in other places, *i. e.*, after getting down to good pay gravel the products are generally flooded, and as the natives have no pumping appliances, the work has to be abandoned until the water falls.

The period of mining seems to extend from the time the crops are in the ground till the harvest time, people coming from all parts of the country to wash for gold.

You may have noticed, in No. 1 of the quarterly returns, that in the "Treasure Table" for this port the amount exported for the quarter ending December, 1885, is given as taels 7,761,180; this is rather misleading, as it is not value, but weight. \* \* \* Reckoning the value of the gold at \$20 per tael, the amount would be about \$155,000.

I am under the impression that gold in paying quantities is found at many places between here and Seoul. The greatest difficulty, as I have elsewhere remarked, is experienced in getting reliable information from the natives. One man will tell

that a certain place is rich in gold, while another will say that there is none at all; the probability being, however, that they are both incorrect.

This province (Ham-Kyōng Do) is rich in other minerals, copper and iron being found in large quantities not far from the port. At Kapoan, about 500 li north of here, good coal is said to be abundant, and copper and lead. I have not heard of coal nearer than that, although it is quite possible that there may be plenty.

Coal is found about 25 or 30 miles from Fusan. I have only seen the surface shale, but I have heard that people at Fusan have burned it and say that it is not good; however, it may be that it was not taken from a good depth.

C. A. WELCH.

NOTE.

I have recently learned that the Chinese officials and merchants are actively interested in the gold mine of Corea at Yung-Hung (near Wōn-san). I have it on good authority that these mines were visited recently by the Chinese consul at Wōnsan, and he has stated that there are 20,000 men working at the mines in the district.

Each man pays to the Government for the privilege of mining about 6 candareens, *weight*, of gold or its equivalent in money. The consul intimated his whim to go to Seoul soon, and that Chinese interest in gold mining at Yung-Hung would be extended.

There can be no doubt that China's policy with regard to Corea has, for a large section of its base, her cognizance of the undeveloped mineral wealth of the country.

GEORGE C. FOULK,

*Ensign U. S. Navy, Chargé d'Affaires ad interim.*

No. 81.

*Mr. Foulk to Mr. Bayard.*

No. 308.]

LEGATION OF THE UNITED STATES,  
*Seoul, Corea, June 3, 1886. (Received July 27.)*

SIR: In dispatch No. 175, dated May 25, 1885, I have already reported that there were residing in Seoul a number of Americans sent here by mission boards of the United States. The foremost of these Americans are Drs. H. N. Allen and H. G. Heron, who conduct the Government hospital in Seoul. A school of chemistry and medicine having been opened by these gentlemen at the hospital, Mr. H. G. Underwood was installed in it as a teacher. Representing the American Presbyterian Board, these three gentlemen have, with the grateful assent of the Korean Government, opened an orphan's home and industrial school in the city, which bids fair to be a great success.

Dr. William B. Scranton and family, and Mrs. M. F. Scranton, with Mr. H. G. Appenzeller, represent the Methodist Mission in Seoul. Dr. Scranton has opened a private hospital. Mr. Appenzeller is about to open a school, and Mrs. Scranton is erecting a building in which to establish a school for girls and women.

These Americans reside in the vicinity of the legation, in native houses, which they have, with much painstaking effort and under great disadvantages of isolation from general foreign assistance, remodeled to form comfortable neat homes of pleasing appearance, and so altered the locality as to make it the wonder and admiration of the Korean people.

The work of these missionaries cannot, to my mind, be too highly commended. They have done much to introduce a spirit of order and



neatness among the Coreans. The hospital, conducted by Drs. Allen and Heron, treated some 11,000 patients during the past year, and the institution is looked on with pride by the Government, which gives it all possible support. In the school attached to it a dozen young gentlemen are enthusiastically studying professions, and rewards for faithful work are promised them by the Government. Drs. Allen and Heron are widely known, and looked upon with universal respect and gratitude. These gentlemen, for their mission board, and associated with Mr. Underwood, who made the distribution, furnished during the year past some 12,000 meals to poor people. The report of the hospital work for the year having been presented the Government, His Majesty evinced his high appreciation of it by giving a decoration to Dr. Allen and honorary promotion to all the Corean officials attached to the hospital.

Dr. Scranton has treated privately many hundreds of patients. The ladies and Mr. Appenzeller have rendered needed assistance in many ways to the people. The members of the Methodist Mission have no connection with the Government, and the advance of their work has not been so rapid in consequence. It may be predicted, however, from the ability and discretion shown by them, that their work will advance rapidly in the future and assume wide proportions.

Upon the coming of these missionaries to Corea I cautioned them individually against indiscreet impulsiveness in propagating doctrines. They expressed themselves as content to work in Corea in giving medical and educational assistance. With much tact and practical reason they have labored so as to secure the respect and kindly regard of the whole Corean people.

There are no other missionaries in Seôul, nor other settled foreign residents outside of the legations. The spectacle presented by this little group of highly-esteemed Americans, with their good work and bright homes in the midst of this dense, far-off people, so recently born into the knowledge of the outer world of nations, is pleasing in the extreme, is creditable to the people of America, and alike creditable to Corea, as well as a token of the most practical form that Corea is susceptible to progress and improvement, and worthy of the assistance she may receive, and needs, from the Western nations that have recognized her as a sister.

I have, &c.,

GEORGE C. FOULK,  
*Ensign U. S. Navy, Chargé d'Affaires ad interim.*

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No. 82.

*Mr. Bayard to Mr. Parker.*

No. 25.]

DEPARTMENT OF STATE,  
*Washington, July 31, 1886.*

SIR: I have received with pleasure and read with keen interest Mr. George C. Foulk's dispatch No. 308 of the third ultimo, relative to the colony of American missionaries in Seôul, and the successful prosecution of their good works.

I am, &c.,

T. F. BAYARD.

## ECUADOR.

No. 83.

*Mr. Davis to Mr. Beach.*

No. 9.]

DEPARTMENT OF STATE,  
*Washington, December 29, 1884.*

SIR: I transmit herewith a copy of a letter addressed to the Department by Messrs. Aaron Pennington Whitehead, of New York, and Nathaniel Wilson, of Washington, reporting the arrest and imprisonment by the authorities of Bahia of Julio Romano Santos, a citizen of the United States, doing business in Bahia as a member of the firm of Santos, Hevia Hermanos (Santos, Hevia & Bros.). It appears that at the present time he is confined in the prison at Guayaquil, and that he is held on a charge of complicity in a recent revolutionary movement. The Secretary of State wishes you to avail yourself of the earliest possible opportunity to become fully acquainted with all the facts of this case, and make them known to the Department without delay. You will also communicate with the proper Ecuadorian authorities on the subject, with a view to securing to Mr. Santos an early hearing in his own behalf, and his prompt liberation if the charges be not sustained.

I am, &amp;c.,

JOHN DAVIS,  
*Assistant Secretary.*

No. 84.

[Telegram.]

*Mr. Davis to Mr. Beach.*DEPARTMENT OF STATE,  
*Washington, December 30, 1884.*

Julio Romano Santos, American, imprisoned at Guayaquil. Urge speedy and fair trial.

DAVIS.

No. 85.

[Telegram.]

*Mr. Reinberg to Mr. Davis.*GUAYAQUIL, *January 13, 1885.*

Julio Romano Santos, prisoner at Port Manta. Northern ports continue closed. Government claims Santos is an Ecuadorian, and wants proofs of his American citizenship.

REINBERG.

No. 86.

[Telegram.]

*Mr. Davis to Mr. Reinberg.*DEPARTMENT OF STATE,  
*Washington, January 17, 1885.*

Santos naturalized July 6, '74. Department has record. Will send copy. Inform Government and request release.

DAVIS.

No. 87.

*Mr. Reinberg to Mr. Davis.*

No. 97] UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, January 20, 1885. (Received February 2.)*

SIR: I have the honor to acknowledge the receipt of your dispatch dated December 29, and to inclose you copies of my dispatches addressed to the governor of this province with reference to the case of Mr. Santos, who continues imprisoned at the port of Manta; also a translation of the governor's answer to my dispatch A, wherein it is stated that the Ecuadorian Government does not recognize the American citizenship of Mr. Santos till the proofs of such fact are presented by this office. In view of this answer, and without any evidence to certify to the nationality of Mr. Santos, and with only your telegram, which it seems was not satisfactory evidence to the Ecuadorian authorities, I telegraphed you as follows:

Julio Romano Santos, prisoner port Manta. Northern ports continue closed. Government claims Santos Ecuadorian. Wants proofs of American citizenship.

And in answer to which I received, yesterday, your cable :

Santos naturalized July 6, seventy-four. Department has record. Will send copy. Inform Government and request release.

With which information I immediately acquainted the proper Ecuadorian authorities, as per inclosed copy of my dispatch B. To this note, as well as to dispatch C, I have not as yet received an answer from the Government, who, I imagine, delays purposely an answer till the steamer, which carries the American mail, leaves to-day this port for Panama.

Although I had communicated to the governor the instructions I had received from the Department, I called on His Excellency the President, and again requested the liberation of Mr. Santos, and remarked to him that as the revolution is over, as reported by the constitutional authorities, the Government could be lenient with their political prisoners. His Excellency kindly replied that he was not acquainted with the progress of the trial, but has information that it is being carried on, as the time and laws of the country allow it, and that it was out of his power to liberate Mr. Santos.

In the mean time, as there has been no communication whatever with the northern ports, I have not been able to receive any news from Mr. Santos, nor from Mr. Goddard, consular agent, with reference to Mr. Santos's case, nor any particulars regarding Mr. Santos's incarceration,



charges, treatment, &c., and as the Ecuadorian authorities persist in not acquainting me with these same particulars, I am as yet unable to give them to the Department as requested.

I am, sir, your obedient servant,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

[Inclosure 1 in No. 97.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, January 8, 1885.*

SIR: On the last day of December last past I had the pleasure to call personally on His Excellency José Ma Placido Caamaño, President of this Republic, to request him, under telegraphic instructions from my Government, the speedy trial of Mr. Julio Romano Santos, an American citizen, imprisoned at Bahia. His Excellency assured me that Mr. Santos's trial would be treated with promptness and fairness, but gave me no definite cause for Mr. Santos's incarceration.

It is now some days since the above interview took place, and as I desire to communicate to my Government the progress of Mr. Santos's trial, as well as the charges against him, I beg to solicit your Excellency for this information.

I am, sir, yours, respectfully,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

Hon. JOSÉ A. GOMEZ,  
*Governor of the Province of Guayas.*

[Inclosure 2 in No. 97.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, January 19, 1885.*

SIR: In answer to your dispatch No. 15, dated 8th instant, I beg to state to you that I received yesterday telegraphic instructions from my Government to inform you that Mr. Santos is an American citizen, and was naturalized July 6, 1874, which fact is recorded in the Department of State at Washington, and that copies of his citizenship papers will be sent me by first opportunity.

I am also instructed to request from your Government Mr. Santos's liberation, and I trust you will give me an early reply stating the determination of your Government with reference to this case, which case I hope will receive a careful regard to the rights of the United States and to maintenance of good relations between the two countries.

I have the honor to be, sir, your obedient servant,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

Hon. JOSÉ A. GOMEZ,  
*Governor of the Province of Guayas.*

[Inclosure 3 in No. 97.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, January 19, 1885.*

SIR: Since my last dispatch addressed to you on this day, I have received a communication from my Government referring to the imprisonment of Mr. Santos, an American citizen, and as the same steamer which brought the mail from Panama called at Manta, the port where Mr. Santos is said to be imprisoned, I again beg to request you, if any information has been received from the Ecuadorian authorities at Manta, to acquaint me with the alleged charges against Mr. Santos and the result of the proceedings against him.

Mr. Santos E. Santos, of New York, a brother of Mr. Julio Romano Santos, in his representation to my Government declares that the Ecuadorian authorities at Bahia were about or had confiscated his brother's property.

I respectfully request that this confiscation be delayed till charges against Mr. Santos are sustained and I can inform my Government of these events.

I have the honor to be, sir, your obedient servant,

Hon. JOSÉ A. GOMEZ,  
*Governor of the Province of Guayas.*

MARTIN REINBERG,  
*United States Vice-Consul-General.*

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[Inclosure 4 in No. 87.]

REPUBLIC OF ECUADOR.  
*Guayaquil, January 12, 1885.*

*To the Consul-General of the United States of America :*

SIR: In answer to your dispatch dated the 8th instant, I beg to state that having made due inquiries and taken the necessary steps, this office has been informed that Mr. Julio Romano Santos is an Ecuadorian citizen according to the constitution of this Republic.

In such case I feel very sorry to have to excuse myself, until the contrary is proved, for not furnishing you with an explanation regarding the reasons this Government had by ordering his imprisonment.

Expressing to you my high esteem and consideration, I have the honor to be, sir, your obedient servant.

JOSÉ ANT'O GOMEZ.

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No. 88.

[Telegram.]

*Mr. Reinberg to Mr. Davis.*

GUAYAQUIL, *January 21, 1885.*

Authorities at Guayaquil now refer me to the Government of Quito, or to the authorities at Manta for particulars. The President has been interviewed here and refuses Santos's release. Am writing to Manta.  
REINBERG.

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No. 89.

*Mr. Reinberg to Mr. Davis.*

No. 98.] UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, January 27, 1885. (Received February 17.)*

SIR: You will receive herewith copy of the answer of the governor at Guayaquil to my dispatches (marked B and C), forwarded on the 20th instant, also copy of my dispatch to the governor of Manabi, and copy of my letter to Mr. Julio Romano Santos.

I telegraphed you on the 21st as follows :

Authorities Guayaquil now refer me Government Quito or authorities Manta for particulars. President interviewed here. Refuses Santos's release. Am writing Manta.

You will perceive by the tenor of the governor's answer that there is a studied intention of delay in furnishing this office with the repeatedly requested information for the supposed or real charges against Mr. Santos.

As regards the governor's statement that he ignores the arrest, &c of Mr. Santos, it is to be doubted, from the fact that General Reynaldo

Flores, the commander of the forces in the north of Ecuador, and the officer who ordered the arrest of Mr. Santos, has been in Guayaquil for nearly two weeks informing his brother-in-law, the President, of the events which have taken place during the insurrection of the northern provinces.

I am informed by the agents at this city of Messrs. Santos Hevia Hermanos that Mr. Julio Romano Santos has been removed from the prison at Manta to the one at Porto Viejo, capital of the province of Manabi, 50 miles distant from the coast.

It is supposed that his trial, if the authorities institute any, will take place at Porto Viejo whenever they see fit to begin it, unless the Department will take more effective measures to exact from the Ecuadorian Government the faithful pursuance of the treaty obligations with the United States.

Copies of all the correspondence referring to Mr. Santos's case have been forwarded to Hon. Horatio N. Beach, consul-general, now at Quito, who will no doubt address the Department direct from there. In the mean time I shall await for the answer of the governor of Manabi, whom I hope will not fail to advise me of the charges preferred against Mr. Santos, and which shall be immediately transmitted to the Department.

I am, sir, yours, respectfully,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

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[Inclosure 1 in No. 98.]

REPUBLIC OF ECUADOR,  
GOVERNMENT OF THE PROVINCE OF GUAYAS,  
*Guayaquil, January 20, 1885.*

*To the Consul-General of the United States of North America:*

I hereby reply to your two favors of yesterday, by the one of which you inform this Government that Mr. Julio Romano Santos is an American citizen, having been naturalized July 6, 1874, and ask that he be set at liberty; and request, by the other, that the confiscation of the property owned by the said Mr. Santos in Bahia may not be allowed to take effect. I take pleasure in informing you, in reply, that this Government has no knowledge of the reasons for which Mr. Santos has been arrested, nor of the confiscation referred to, owing to the fact that the said gentleman was not arrested within the jurisdiction of the province of which I am governor. I can only tell you that you should hereafter address, in relation to this matter, either the Supreme Government or the government of the province in which the gentleman in question was arrested.

With sentiments of high consideration, and hoping that this matter will be settled with the cordiality which happily exists between this Republic and that of the United States, I sign myself, Mr. Consul,

Your very faithful and obedient servant,

J. A. GOMEZ.

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[Inclosure 2 in No. 98.]

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
*Guayaquil, January 22, 1885.*

Col. JOSÉ ANTONIO MARÍA GARCIA,  
*Governor of the Province of Manabi, Puerto Viejo:*

I have the honor to inform you that I received instructions, by telegraph, from my Government, on the 24th ultimo, to ask for a speedy and impartial trial of Mr. Julio Romano Santos, an American citizen, now under arrest in the port of Manta, in the jurisdiction of the province of Manabi, on the ground that he is believed to be implicated in the recent revolutionary movement which took place in that province.

As the northern ports were closed, at that time, to communications of all kinds, and as I did not know where Mr. Santos had been arrested, I sent an official communication to the governor of the province of Guayas, he being the nearest authority, trans-



mitting to him the instructions which I had received from my Government. That officer was pleased to send me the following reply:

"I have to inform you, in reply to your communication, that this Government, after taking due inquiry, has ascertained that Mr. Julio Romano Santos is a citizen of Ecuador according to the constitution of the Republic, and therefore, until the contrary shall have been proved, I am compelled to decline to inform you of the reasons which the Government had for causing his arrest."

I immediately transmitted this answer to my Government, and in reply it sent me the following instructions:

"Santos naturalized July 6, 1874. Is registered in this Department. Will send copies. Inform Government and ask for his release."

I communicated these instructions to the aforesaid governor, asking, as I was instructed, for the release of Mr. Santos, making inquiry as to the cause of his arrest and the charges against him, and also requesting that his property might not be confiscated. To this the governor of the province of Guayas was pleased to reply, two days after my dispatch had been delivered to him, and after the departure of the steamer that carried the American mail as follows. (Here follows the letter of Governor Gomez, of January 25, 1885, which goes herewith.)

In virtue of the reference made, I hereby address you, asking for the release of Mr. Julio Santos, an American citizen, in the name of the Government which I have the honor to represent, begging you, at the same time, to inform me what were the causes which led to the arrest and imprisonment of this American citizen, and also to state the reasons which authorized the Ecuadorian authorities to confiscate the property of the American citizen, Mr. Julio Romano Santos.

Hoping that this matter will receive all the attention and care that is required for the continuation of the friendly relations which exist between the United States and Ecuador, I sign myself,

Your very respectful and obedient servant,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

*Inclosure 3 in No. 98.]*

UNITED STATES CONSULATE-GENERAL.  
*Guayaquil, Ecuador, January 22, 1885.*

SIR: I have received information from our Government at Washington of your arrest and incarceration by the Ecuadorian authorities of your district or place of residence; also, instructions to do all in my power in your behalf, that is, to request your speedy and fair trial, and latterly to request your release.

Although I have written to the consular agents at Bahia and Manta for information, I am as yet without any of the particulars of your case or the charges which the Ecuadorian Government exhibits against you.

Further, the Government officials here seem to know nothing about your arrest, as they have officially advised me, but refer me to address the authorities of Manabi on the subject, to whom I wrote to-day, and also request them to forward me whatever communication you might desire to send me.

If you have not already communicated with Mr. Goddard or Mr. L. E. Santos, acting consular agent at Manta, and have protested against the steps taken toward you, if you are innocent of the charges raised against you, you can send me by first opportunity a clear statement and declarations of the arbitrary acts which you may have suffered from the authorities, as our Government and I, in representation of same, will give you all the protection to which our citizens, in unjust cases, are entitled.

I am, sir, yours, faithfully,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

MR. JULIO ROMANO SANTOS, *Manto.*

No. 90.

[Telegram.]

*Mr. Davis to Mr. Reinberg.*

DEPARTMENT OF STATE,  
*Washington, January 28, 1885.*

Report immediately by telegraph upon case of Julio Santos.

DAVIS.

No. 91.

*Mr. Beach to Mr. Davis.*

No. 23.] UNITED STATES CONSULATE-GENERAL, ECUADOR,  
*Quito, January 31, 1885. (Received February 25.)*

SIR: The first information that I had of the arrest and imprisonment of Julio Romano Santos by the Ecuadorian authorities was received on the 6th instant from the United States vice-consul at Guayaquil. The next day I wrote to President Caamaño at Guayaquil, from which place he is directing national affairs, a note, a copy of which is given in inclosure No. 1.

On the 27th instant I received Department of State dispatch No. 9, dated December 29, 1884. The next day I addressed a note to the minister of foreign relations, a copy of which is given in inclosure No. 2.

Also, on the 28th, I addressed a letter to Mr. Santos, in care of the United States vice-consul at Guayaquil, a copy of which is given in inclosure No. 3.

On the 29th I received a reply to my note to the minister of foreign relations, a copy of which is given in inclosure No. 4. From this very courteous and friendly dispatch it appears that the Ecuadorian authorities make the following points against Mr. Santos: That he has lost his United States citizenship, and that he has committed a "hated crime" against the laws of the country. The first claim is probably predicated on the treaty concluded May 6, 1872. This claim, however, the minister says would be waived but for the grave offense charged.

As soon as a statement has been received from Mr. Santos it will be forwarded to the Department of State. The ports of Bahia, Manta, and Esmeraldas have been closed (and are yet, so far as is known here), which causes delay in communication.

I am, respectfully, yours,

HORATIO N. BEACH,  
*Consul-General.*

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[Inclosure 1 in No. 23.]

UNITED STATES CONSULATE-GENERAL, ECUADOR,  
*Quito, January 7, 1885.*

SIR: Information having been received from the Department of State at Washington that Julio Romano Santos, a citizen of the United States of North America, is held a prisoner for an alleged offense against the Government of Ecuador, I respectfully request you to permit and assist Martin Reinberg, United States vice-consul at Guayaquil, in holding intercourse personally or by letter with the said Santos, that his statement of the case may be freely and fully presented to an official representative of his country. In the mean time I respectfully ask for said Santos such consideration and care as the Ecuadorian Government would have bestowed upon one of its subjects imprisoned in a foreign land.

Yours, with great respect,

HIS EXCELLENCY J. M. P. CAAMAÑO,  
*President of Republic of Ecuador, at Guayaquil.*

HORATIO N. BEACH,  
*Consul-General.*

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[Inclosure 2 in No. 23.]

UNITED STATES CONSULATE-GENERAL, ECUADOR,  
*Quito, January 28, 1885.*

SIR: I have the honor of addressing you regarding Julio Romano Santos, a citizen of the United States of North America, who, I am informed by the Department of State at Washington, is imprisoned at Bahia for an alleged offense against the laws

of Ecuador during the recent rebellion. In behalf of my Government I respectfully and firmly demand his immediate release from imprisonment, unless proof positive exists of his guilt.

I also respectfully inform you that I have sent a letter in care of Martin Reinberg, United States vice-consulat Guayaquil, directed to said Santos, which I request your Government to aid in forwarding to him and to facilitate the return of his reply, that a representative of his country may receive freely and fully his version of what occurred prior to his arrest and since.

Yours, with great respect,

HORATIO N. BEACH,  
*Consul-General.*

Hon. SEÑOR ELPINOSA,  
*Minister Exterior Relations.*

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[Inclosure 3 in No. 23.]

UNITED STATES CONSULATE-GENERAL, ECUADOR,  
*Quito, January 28, 1885.*

DEAR SIR: I received yesterday, from the Department of State, information of your arrest and imprisonment for an alleged offense against the Ecuadorian Government during the recent rebellion. I have to-day made a formal demand on this Government for your immediate release, unless there exists proof positive of your guilt. I have also asked this Government to aid in forwarding this letter to you, and to facilitate the return of your reply.

Please state concisely and clearly the circumstances attending your arrest and what of importance has followed. State what the Ecuadorian officials claim, and give your own version.

I feel assured that the United States Government will obtain for you all your rights, and as promptly as general circumstances will permit.

I am, respectfully, yours,

HORATIO N. BEACH,  
*Consul-General.*

JULIO ROMANO SANTOS, Esq.

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[Inclosure 4 No. 23—Literal translation.]

MINISTER OF FOREIGN AFFAIRS OF ECUADOR,  
*Quito, January 29, 1885.*

MR. CONSUL-GENERAL OF THE UNITED STATES, *Present:*

I had the honor of receiving the esteemed dispatch that you have sent me on this date asking for the immediate liberty of Mr. Julio Romano Santos, with the exception of there being evident proof of his having taken part in the passed rebellion, began or promoted by Eloy Alfaro.

Although the Government of Ecuador has doubted that Mr. Santos should have kept the North American nationality because he has been born in this Republic of Ecuadorian; has been a resident of the latter six years, more or less, according to what I am informed, after he came back from the United States. It would have been very pleasant to the Government to act in accordance with your petition, if the said Mr. Santos were not submitted to judgment for his immediate and direct complication in the hated crime for which he is to be judged. If, in the course of the proceedings, the proof of his culpability should be vanished (this not being easy, for it seems he was taken *in flagrante* on board of a boat that carried arms to the rebels), the Government would not doubt in restoring him to freedom, giving you in this way a proof of esteem and benevolence.

In the mean time I have ordered the governor of Manabi to facilitate the delivery of the letter which you have directed to Mr. Santos by means of Mr. Reinberg, and have ordered him to receive the answer, and send it to this ministry, so that it may reach your hands with the proper safety.

I profit this opportunity to present to you my distinguished considerations as your very attentive obedient servant,

J. MODESTO ESPINOSA.



## No. 92.

*Mr. Reinberg to Mr. Davis.*

No. 99.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, February 3, 1885. (Received February 25.)*

SIR: Since my last dispatch, of the 27th ultimo, I have had no answer to my note addressed to the governor of the province of Manabi (copy of which was inclosed to you on the above-given date of my previous communication), relative to Mr. Santos's case, nor do I expect any till the 5th of the present month, when the mail-carrier from that province reaches this city.

On the 28th ultimo Agent Goddard, of Bahia, arrived at this port; on his way here he passed by Porto Viejo, and saw Mr. Santos in prison, but as he had not received my dispatches with reference to his case, he did not obtain full particulars on the matter, as his dispatch No. 20 (copy of which I inclose) shows.

On the same day, the 28th, I received your telegram:

Report immediately by telegraph upon case of Julio Santos.

To which I could only answer:

Agent Goddard here; saw Santos Porto Viejo. Prison treatment good. Authorities stated trial commenced. Quantity evidence to take causes delay. Property seized by Government. Produce value five thousand U. S. C. sold. Goddard returning instructed watch case.

Later on, about 7 p. m. of same day, Secretary Chandler's cablegram, as follows, was received:

Naval vessel ordered to Guayaquil in connection with case of Santos.

The Department will easily perceive the various causes which have so far prevented me from giving a specific report on Mr. Santos's case, namely:

(1) The want of communication with the prisoner, who has been taken from one place to another since his arrest.

(2) The distance, about 150 miles of bad roads, which separate me from the prisoner, and that no mails could be sent there for more than a month, by reason of the northern ports being closed.

(3) The pretended ignorance of the local authorities of the charges of the Government against Mr. Santos, as officially expressed in their answers to my various dispatches requesting information.

(4) The marked desire of the President, who, in this South American Republic, is the only judiciary authority, and whose desires are always followed, to convict the prisoner, evidence of which is shown in the arbitrary confiscation of Mr. Santos's property.

It is my firm belief that all these obstacles will only be overcome and Mr. Santos's case cleared up with the presence of the naval vessels ordered here, which I expect will arrive this week.

I am, sir, &c.,

MARTIN REINBERG,  
*United States Vice-Consul General.*

[Inclosure in No. 99.]

UNITED STATES CONSULAR AGENCY,  
Bahia, Ecuador (now at Guayaquil), January 28, 1885.

M. REINBERG, Esq.,

*United States Vice-Consul-General, Guayaquil :*

SIR: I have to advise you that on my journey to this place I found your dispatch No. 17 at Jipijapa; said dispatch had not been sent forward, owing to the fearful condition of the roads.

JULIO ROMANO SANTOS.

I have to advise in respect to this gentleman that the day before my arrival at Jipijapa, whilst at Porto Viejo, I discovered that Mr. Santos was incarcerated at that place, and as I had heard rumors that he was an American citizen I asked, and with some little difficulty obtained, permission to see him. Apparently he is well treated, having a good bed and a large clean room, in company with his brother. As I had not yet received your dispatch No. 17, I did not ask him other questions than those strictly relating to his naturalization as an American citizen and the proofs thereof.

I urged upon the commandant a speedy and fair trial, and he replied that his case was already in hand, but an exceedingly large number of declarations had to be taken, of necessity occupying much time.

He is charged with being one of the principals of the late revolutionary movement, and of having had a large quantity of arms and ammunition hidden in his house. In respect to his property it was in the hands of the Government officials when I left Bahia, and by order of His Excellency the President of the Republic a quantity of ivory-nuts, approximately valued at \$5,000, were delivered from Mr. Santos warehouse.

On my return to my consular district by next steamer I will comply with your instructions, and proceed to his place of incarceration and there take his declaration, and adopt such measures as may be necessary that he may have a fair and speedy trial. I inclose you my three monthly reports for the last quarter of the year 1884.

I am, sir, yours truly,

E. T. GODDARD,  
*United States Consular Agent.*

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No. 93.

*Mr. Reinberg to Mr. Davis.*

No. 101.]

UNITED STATES CONSULATE-GENERAL,  
Guayaquil, Ecuador, February 15, 1885. (Received March 6.)

SIR: The U. S. S. Wachusett arrived at this port on the 9th instant, and at 7 p. m. of the same day I received Secretary Frelinghuysen's cablegram as follows:

Great interest here in Santos case. Two resolutions passed the House. If necessary employ counsel, Department's expense, for his and his property's protection. See him in person.

On the following day, the 10th instant, Commander Mahan and self called on His Excellency the President, requesting again the liberation of Mr. Santos. His Excellency disclaimed on this occasion any executive power, informing us that as the seat of the Government was at Quito, and that as he was here on a visit, the present head of the Republic was the Vice-President of the Republic. However, he confidentially stated to us that Mr. Santos was an Ecuadorian citizen in accordance with article 2 of the naturalization treaty of 1872 between the United States and Ecuador. As a proof of his statement he further said that Mr. Santos having returned to his native country and established a commercial house at Bahia, and having resided more than six years after his return without having visited the United States during that period, he had lost his rights as an American citizen and was again a citizen of Ecuador.

I in return cited him the following articles :

#### ARTICLE II.

If a naturalized citizen of either country shall renew his residence in that where he was born, without an intention of returning to that where he was naturalized, he shall be held to have reassumed the obligations of his original citizenship, and to have renounced that which he had obtained by naturalization.

#### ARTICLE III.

A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there without returning to that where he was naturalized. This presumption, however, may be rebutted by evidence to the contrary,

and told him that my Government considered Mr. Santos a citizen of the United States, and that as the matter of his citizenship was in doubt for the reasons above given, Commander Mahad would immediately proceed to the port Bahia with Agent Goddard for the purpose of seeing the prisoner, and that he would take Mr. Santos's declarations and learn whether the prisoner's intention was to reside forever in Ecuador or whether this presumption could be rebutted. I consequently telegraphed Secretary Frelinghuysen :

Wachusett here. Commander and self have seen President Caamaño, who disclaims executive power, but states confidentially Santos is Ecuadorian citizen, as he has returned to and resided in Ecuador six years. Quotes naturalization treaty 1872. Wachusett will go to Bahia with Goddard to see if Santos can rebut presumption.

On the 13th instant the U. S. S. Wachusett left for Bahia, to take Goddard on board and return to Manta, as I have lately learned that the prisoner has been now removed to Monte-Cristi, a town one hour's ride from the port Manta.

On the 11th of this month, nearly fifty days since the day Mr. Santos was imprisoned, I received a letter from him (copy of which I inclose). In it he says that his trial has not yet begun, and this treatment, even if he is an Ecuadorian citizen, shows how justice is administered in this South American Republic.

Hon. Horatio N. Beach, consul-general, now at Quito, has been informed by telegraph of the arrival of the Wachusett, of all the steps so far taken by this office.

I am, &c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

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[Inclosure in No. 101.]

*Mr. Santos to Mr. Reinberg.*

PORTO VIEJO, January, 31, 1885.

MR. MARTIN REINBERG,

*United States Vice-Consul-General, Guayaquil :*

SIR : Your note of the 22d instant duly received, asking information about my arrest by the Ecuadorian authorities.

I was arrested on the 9th of December of last year, without notifying me of what accusations the Government has against me, and ever since then I have been under arrest with strict orders not to be allowed to see anybody. The condition imposed upon me for my release has been a war tax, \$30,000. Moreover, the Government officials have been occupying my house ever since, and taken possession of almost everything belonging to the firm of Santos, Hevia H'nos, of which I am the senior member and only representative here. As I have not been allowed to communicate with



anybody, I have not been able to give a power of attorney to any one to represent the business I managed, and in consequence our firm is almost bankrupt. I have been told that our stores have been opened by soldiers and the greater part of the contents taken by Government officials. I have even been obliged to send my family, four sisters, to Panama, as they made our house barracks for soldiers.

Consular Agent E. T. Goddard and Mr. J. M. Dickerson have gone to Guayaquil and they can give you all the information you require. These gentlemen know all about me and know what my conduct has been during the short period of the revolutionary movement in this province. Even to-day I have difficulty in communicating with any one to bring about a speedy trial. I continue under military arrest, and the authorities say they will not release me unless I give \$30,000, and will not put me on trial.

Mr. Daniel Lopez will be here in Porto Viejo to-day or to-morrow, and I am going to order him to send me a lawyer from Guayaquil to attend to my case, and hope you will give him instructions the day he must proceed, so as not to allow the authorities here to delay the trial, as they are responsible for the arbitrary acts committed.

I am told that I am arrested on suspicion of having aided the revolutionary movement, and by law they cannot detain me more than three days without being brought to trial, and now I have been more than fifty days without being brought to trial.

I am, faithfully, yours,

JULIO ROMANO SANTOS.

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No. 94.

*Mr. Reinberg to Mr. Hunter.*

No. 104.] UNITED STATES CONSULATE-GENERAL,  
Guayaquil, Ecuador, February 24, 1885. (Received March 18.)

SIR: About 10 o'clock a. m. of the 19th instant Captain Mahan, commanding U. S. S. Wachusett, arrived at Santa Helena, on the coast of Ecuador, on his return from interviewing the prisoner Julio Romano Santos.

\* \* \* \* \*

By to-day's steamer from the south I received from Captain Mahan original declarations (copies of which I inclose), and shall forward same to Hon. Horatio N. Beach, consul-general, now at Quito, by first mail.

I am, &c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

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[Inclosure 1 in No. 104.—Translation.]

BAHIA DE CARÁQUEZ, February 17, 1885.

Before Mr. E. T. Goddard, consular agent of the United States of America at this port, and Mr. Jesse M. Roper, lieutenant of the war steamer Wachusett, appeared Señor José Polit, who, being sworn before God our Lord and upon the emblem of the cross, promised to speak the truth in all whereof he has knowledge touching the intention of Mr. Julio R. Santos to return to live in North America, to which end he has been summoned as a witness by Mr. José B. Plaza.

To the undersigned he declares that Mr. Julio R. Santos has constantly held the resolve to return to dwell in North America as soon as it might be possible for him to do so, with which intention he had established, through his brother Elias Santos, a commercial house in New York, to the end that he should himself remove thither to reside, being the country in which he had lived since childhood and in which he had been educated up to the obtainment of his diploma as a civil engineer, and above all because it is the nation of all his sympathies; that not only did Mr. Julio Santos constantly make known to him this desire, but that Elias Santos in personal communications also informed the undersigned that he undertook the voyage to the United

States in order to procure the realization of the desire of his brother Julio to go to live in New York, accompanied by his mother and his sisters.

The subscriber confirms this his declaration, which he signs in the presence of the consular agent and the lieutenant aforesaid.

JOSÉ POLIT.

Certifying that the foregoing was duly declared under oath in our presence.

E. T. GODDARD,  
*United States Consular Agent.*  
JESSE M. ROPER,  
*Lieutenant, U. S. Navy.*

[Inclosure 2 in No. 104.—Translation.]

In Bahía de Caráquez, the 17th of the month of February, 1885, being present in this consulate Don José Buenaventura Plaza, he took oath as a Catholic, and under this solemnity saith:

That it is known to him that Don Julio Santos, being then a minor, went to the United States in 1865 to be educated; that it is also known to him that, by reason of the death of Don Antonio Santos, father of Don Julio, the latter returned to Ecuador in 1871; that soon afterwards he returned to the United States, whence he returned at the expiration of two or three years; that he does not remember the length of time during which on this occasion he remained in Ecuador, but that Mr. Santos again returned to North America, where he remained about four or five years. Finally, although he does not remember in what year Don Julio Santos returned to Ecuador, since when, up to this time, he has not again left this country; that it is known to him that the house of commerce was formed in Bahía, under the firm-name of Santos, Hevia Hermanos, as likewise was the determination to establish in New York a commercial house to be in correspondence therewith from the 1st of January of this year; that the establishment of this house was in pursuance of the deliberate intention that all the family of Don Julio should remove to New York; that in regard to this, as in all other respects, the declarant refers to the very worthy residents of this port, Messrs. José Polite and J. Samuel Zedaño, as being conversant with all these particulars; that what he has said is the truth in virtue of the oath he has taken and subscribed before the consular agent.

Being here asked by the consular agent if Don Julio R. Santos has held public offices in this Republic, he saith, "No;" that as an act of condescension he accepted the office of treasurer of the Camino Cisandino (Cis-Andean road), but without exercising any functions, and that this office was one of those which involve no jurisdiction.

Certifying that the before-mentioned José B. Plaza has declared the foregoing under oath, and that he himself has presented said declaration in his own handwriting.

E. T. GODDARD,  
*United States Consular Agent.*

Witness:

JESSE M. ROPER.  
*Lieutenant, U. S. Navy.*

[Inclosure 3 in No. 104.]

*Memorandum of the statement of Mr. Julio Romano Santos, in the presence of E. T. Goddard, consular agent of the United States of North America, at Bahía de Caráquez, made in the presence of the captain of the steamer Wachusett, at Monte-Cristi, on the 16th day of February, 1885.*

(1) He left Bahía in 1865. He came to Bahía in 1871, and returned to New York the same year. He came to Bahía in 1874, and returned to New York the same year. He came to Bahía in April, 1879, and has remained there until now.

(2) At a family meeting held in 1881, it was resolved to establish a commercial house here, of which Santos Elias was to be recognized as the head. There was no public document.

(3) In March, 1884, Santos Elias went to New York for the purpose of establishing a business house; in January last he was still in that city for the purpose of establishing said house, to which deponent with his entire family was to go.

(4) That Julio Santos has always declared that he would not accept any public office, much less join the national guard, as Mr. Francisco Avellan, the political chief of Bahía, once attempted to force him to do.

(5) That Mr. Santos Elias can furnish evidence of the intention to establish the commercial house in New York.

(6) That Mr. Berntich can furnish proof that Julio Santos always intended [to return] to the United States, as can also Mr. Antonio Martinez, of Hagerstown, Md.

(7) Messrs. José B. Plaza, Ignacio Palan, and G. Villacis can likewise serve as witnesses of his intention to return to the United States.

(8) Mr. Flavio Santos, in November or December, 1880, was present at the family meeting which resolved to establish the house at Bahia, and subsequently in New York. The correspondence of the entire year 1884 with Mr. Flavio Santos, in London, has reference to the house that was to be established [in] New York.

No. 95.

*Mr. Hunter to Mr. Beach.*

No. 24.]

DEPARTMENT OF STATE,  
Washington, February 28, 1885.

SIR: Referring to your dispatch No. 23 in relation to the imprisonment of Mr. J. R. Santos at Manta, I have to inform you that Congress has requested the President to use his efforts to secure a speedy and fair trial and to protect the life and property of the prisoner. The Department has replied that the recourse of rebutting evidence of his intention of not returning to the United States, &c., is still open to Mr. Santos, and his right thereto will be insisted upon.

You will demand and make every endeavor to secure for Mr. Santos the right of the treaty, especially in the matter of rebutting evidence to show that he retained by intention and act his acquired United States citizenship.

I am, &c.,

WM. HUNTER,  
Second Assistant Secretary.

No. 96.

*Mr. Reinberg to Mr. Hunter.*

No. 105.]

UNITED STATES CONSULATE-GENERAL,  
Guayaquil, Ecuador, March 2, 1885. (Received March 26.)

SIR: I have the honor to inclose you herewith copy of Consular Agent Goddard's dispatch No. 23, dated February 20, 1885, having reference to his interview with Mr. Santos; also, copy of declaration of Mr. Gumerindo Villacis, former political chief (*jefe politico*) of the district where Mr. Santos resided, referring likewise to the case of Mr. Santos.

I am, &c.,

MARTIN REINBERG,  
United States Vice-Consul-General.

[Inclosure 1 in No. 105.]

*Mr. Goddard to Mr. Reinberg.*

No. 23.]

UNITED STATES CONSULAR AGENCY,  
Bahia, February 20, 1885.

DEAR SIR: I have the honor to advise you that U. S. S. Wachusett arrived here on 14th instant, and that, in conformance with your instructions, proceeded in her to Manta, from which place I went, in company with Commander Mahan, of Wachusett,



to Monte-Cristi for the purpose of interviewing Mr. J. R. Santos, the prisoner in the hands of the Ecuadorian Government charged with complicity in the late revolutionary movement in this province.

The answers of Mr. Santos to the questions put to him by Commander Mahan and myself were all written down and delivered by me to Commander Mahan, to be forwarded to you. I also succeeded in obtaining an amount of corroborative evidence bearing directly on the subject of the intention of Mr. Santos to return to the country of his adoption, all of which I handed to Commander Mahan, retaining at the consulate copies.

I have also the pleasure to inclose you a copy of an official dispatch which I received this morning from the minister of foreign affairs, with date January 4, 1885, which surprises me, as Mr. Beach's letter of January 21 is now before me, in which Mr. Beach advises me that on the date mentioned he called upon the secretary of foreign relations and that the secretary promised to have the charges investigated which had been adduced against me.

I am, &c.,

E. T. GODDARD,  
*United States Consular Agent.*

Since writing above I have obtained another declaration bearing on the Santos case from the former political chief, which I now inclose.

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[Inclosure 2 in No. 105.]

At Bahía de Caráquez, on the 21st day of the month of February, 1885, Mr. Gumerindo Villacis, being present at this consulate, took oath as a Catholic, and under that oath declared that he knew that Don Julio R. Santos went to North America, while still a minor, for the purpose of receiving his education, and that he resided there for many years; that the said Mr. Santos had repeatedly told him, in private conversations, that it was his intention to leave Ecuador and to settle permanently in North America with his whole family; that his brother, Mr. Santos Elias Santos, left here and went to that city (*sic*) with the same intention, proposing to establish a mercantile house which was to begin operations on the 1st day of January, 1885; that he knew that Mr. Santos had accepted no public office involving the exercise of jurisdiction; that while he (deponent) had held the office of political chief of this canton he had frequently requested the said gentleman to accept some office in this locality, which he had always refused to do on the ground that he was an American citizen. He declared the foregoing statement to be true, according to the oath which he had taken, and signed, G. Villacis.

I, the undersigned consular officer, certify that the foregoing was declared under oath in my presence.

E. J. GODDARD,  
*United States Consular Agent.*

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No. 97.

[Telegram.]

*Mr. Bayard to Mr. Reinberg.*

DEPARTMENT OF STATE,  
*Washington, March 12, 1885.*

Let Goddard send further affidavits and proofs showing Julio Santos's intention to return United States, not only during last few months but continuously during stay Bahía. Let Goddard confer with Santos touching such proofs.

BAYARD.

No. 98.

*Mr. Beach to Mr. Hunter.*

No. 34.]

UNITED STATES CONSULATE-GENERAL,  
*Quito, Ecuador, April 11, 1885. (Received May 5.)*

SIR: On the 3d instant I received Department of State dispatch No. 24, relating to Julio Romano Santos, now imprisoned by the Ecuadorian Government, at Monte-Cristi. On the following day I addressed a note to the minister of foreign affairs, a copy of which is given in inclosure No. 1. I did not specifically refer to the subject of freedom of obtaining evidence as to the citizenship of Mr. Santos, as I know that no obstacles have been interposed.

On the 8th instant I received a reply to my note, a translated copy of which is given in inclosure No. 2. The whole question of Mr. Santos's citizenship has been referred to Washington, to be decided between the Department of State and Minister Antonio Flores. It will be seen that I have developed an outline of the charges against Mr. Santos, to which the attention of the Department of State is particularly directed.

Since the Wachusett came to Ecuador regarding Mr. Santos, the Government here has appeared active in its efforts to hold him in all respects to a strict accountability,

I have by to-day's mail written to Mr. Santos that the question of his citizenship had been referred to Washington, and that if he had any more evidence, to forward it there.

I am, &amp;c.,

H. N. BEACH,  
*Consul-General.*

[Inclosure 1 in No. 34.]

*Mr. Beach to Mr. Espinosa.*UNITED STATES CONSULATE-GENERAL,  
*Quito, April 4, 1885.*

SIR: I have the honor of addressing you again concerning Mr. Julio Romano Santos, imprisoned by your Government. Yesterday I received from the Department of State at Washington a note in which it is set forth that under the treaty between Ecuador and the United States Mr. Santos has not lost his rights as a citizen of the United States, evidence having been adduced showing that his business arrangements in Ecuador were for a temporary residence; that he has always intended returning to the United States to reside, where he has maintained business connections. I am instructed to demand that Mr. Santos be given all of his rights under the treaty between the two countries. As I interpret your note to me dated January 28, 1885, the Government of Ecuador is willing to concede the United States citizenship of Mr. Santos, and desires only to hold him accountable for alleged violations of Ecuadorian laws. Am I right in my interpretation?

I am informed that formal charges have been made by your Government against Mr. Santos, in which criminal acts on his part are alleged. Will you please furnish me with a copy of those charges?

I am, &amp;c.

H. N. BEACH,  
*Consul-General.*

[Inclosure 2 in No. 34.—Translation.]

*Mr. Espinosa to Mr. Beach.*

MINISTRY OF FOREIGN AFFAIRS OF ECUADOR.

*Quito, April 9, 1885.*

SIR: I have the honor of answering the appreciated dispatch of yours dated the 4th of the present, relating to the nationality of Mr. Julio R. Santos, and to the proceedings following, for the part he took in the rebellion begun by Eloy Alfaro in the provinces of Manibi and Esmeraldas.

You communicate to me that you have received from the Department of State at Washington a dispatch in which it is declared that the said Mr. Santos, according to the treaty between the United States and Ecuador, has not lost his rights as North American citizen, because there is evidence that his residence in Ecuador has been only temporary. For this my Government believes that the enlightened Government of the American Union has decisive proofs against the presumption that the third article of said treaty establishes in these words. [Here the words of the article are given.—C. G.] And as these proofs are not known to the Government of Ecuador, that has no other knowledge in this particular than that of the residence of Mr. Santos for more than six years in this Republic at the head of a commercial house established in Manibi; that he has accepted a public service during this last time, and his participation in an intestine rebellion against the constitutional order, has believed it convenient to give instruction to his excellency Señor Don Antonia Flores, credited as an envoy extraordinary and minister plenipotentiary before the American Government, so that having these proofs in view he may definitely arrange at Washington this affair, and may have the nationality of Mr. Santos established in the way he may agree with the said Government.

As regards the meaning of my dispatch of the 28th of January last, that you have interpreted in the sense that the Government of Ecuador is disposed to acknowledge the North American citizenship of Mr. Santos, and only wishes to make effective the responsibility which he has incurred for violating the Ecuadorian laws, I have the honor to tell you that I confined myself to express the doubt of my Government as regards the said disputed citizenship, because the positive evidence had not yet been received, as stated, and to show you the satisfaction with which I would give you a proof of esteem and benevolence, granting the freedom of the prisoner if he were not submitted to judgment in a lawful way, or if the proofs of his culpability should be banished.

The proceedings for trial of Mr. Santos were in consequence of his direct participation in the Alfaroist rebellion, which is evidently proved by his having been captured with armed people and warstores in the mouth of the Chone, and for having found in his house Remington guns, military stores, and the baggage of the head man of the rebellion, being also notorious for the rest; that he was one of the chiefs of the rebels that disturbed the peace of the nation and made in the province of Manibi the bloody war recently finished. If you wish the evidence of these charges, I can order the copies of the corresponding proofs from the province of Manibi for they are of record on the regular procedure.

I am, &amp;c.,

J. M. ESPINOSA.

No. 99.

*Mr. Reinberg to Mr. Porter.*

No. 117.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, April 16, 1885. (Received May 5.)*

SIR: I herewith inclose you copies of Consular Agent Goddard's dispatches to this office, Nos. 26, 27, and 28, together with four affidavits relative to the case of Julio Romano Santos.

I am, &amp;c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*



[Inclosure 1 in No. 117.]

*Mr. Goddard to Mr. Reinberg.*

No. 26.]

UNITED STATES CONSULAR AGENCY,  
*Bahia (now at Manta), April 4, 1885.*

DEAR SIR: In accordance with your instructions contained in your dispatch No. 25, which I received in Bahia on the 30th of March, I have to report the following: I left Bahia on horseback, accompanied by a guide, on the night of the 1st instant, and by traveling all night arrived at Monte-Cristi on the 2d, about 2 p. m. I paid the same day a visit to the military commander of the forces, Colonel Orejuela, who consented with readiness to my application for an interview with the prisoner Julio Santos. On being admitted to see him, I found him in the common prison, a room about 20 feet by 20, in which fourteen other prisoners were confined, amongst them being one very sick with fever. I asked the prisoner whether he had any complaint to make in regard to the treatment he received, and he replied that he could only complain of the treatment from the day previous, which had been since then very severe, owing to the escape of his brother A. Santos and two other prisoners. I represented the matter *ex officio* to the colonel in command, and before I left yesterday had the satisfaction of hearing the order given to change him from the prison to a private room.

Julio Santos has given me a number of names of persons who he says can testify, not only to his intention to return to the United States of America during the last few months, but since he last came from the States.

These depositions I will endeavor to obtain to send forward by the steamer that arrives here to-day and at Bahia to-morrow; if not, I will send them by land post. I have just dispatched a special post to Monte-Cristi, as I hear that Julio Santos was taken suddenly ill and was removed to the hospital after I left there yesterday. I have obtained copies of all the evidence taken against the prisoner Santos, which I hold, if necessary, to forward to Washington, if you so direct. Prisoner complains that much of the evidence brought against him has been taken from the witnesses by torment, and is false, and says that he hopes to, on gaining his liberty, prove such. I have also to advise you that the "Juez de Letras," at the capital of this province, has lately declared that all evidence taken against the prisoner Santos is null and void, owing to informality, and that in consequence a new trial is to be commenced. I am in hopes that by the steamer that arrives to-day that I may receive fresh advices from you, as so much time is lost by waiting one month for each communication.

I am, &amp;c.,

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 2 in No. 117.]

*Mr. Goddard to Mr. Reinberg.*

No. 27.]

UNITED STATES CONSULAR AGENCY,  
*Bahia, April 6, 1885.*

DEAR SIR: I have the honor to inform you that I arrived back here yesterday by the steamer. I find that it will be impossible to obtain the proofs required for the Santos case to send forward by this steamer. I will therefore send them forward by the land post.

I am, &amp;c.,

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 3 in No. 117.]

*Mr. Goddard to Mr. Reinberg.*

No. 28.]

UNITED STATES CONSULAR AGENCY,  
*Bahia, April 7, 1885.*

DEAR SIR: I herewith inclose you four declarations in reference to the Santos case, which are all that I have been able to obtain in so short a time. I am in hopes of sending you others by the next opportunity.

It is difficult for me to obtain many declarations, as many who could no doubt give valuable information are afraid to do so.

I am, &amp;c.,

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 4 in No. 117.]

At Bahía de Caráquez, on the 7th day of the month of April, 1885, appeared Mr. Benito Soler, a Spaniard, who has been a resident of this place for about eighteen years, before Mr. E. T. Goddard, consular agent of the United States of North America, in this port. The said Benito Soler having made oath before God our Lord, and having made the sign of the cross, declared that he would tell the truth as to all that he knew in respect to the intention which Don Julio R. Santos had to return to North America, in order to establish his final residence there, for which declaration he had been summoned by the aforesaid consular agent.

The undersigned is aware that Mr. Julio R. Santos earnestly desired to return to the United States, and that he was constantly laboring to secure the means of putting this design of his into execution; his mother and sisters also desired that he should do so, as he remarked in his private conversations, showing sympathy for that country where his childhood was spent, where he was educated, and where he had established friendly relations. This desire and intention to return to North America was manifested by him ever since the time when he came from there; he never manifested any contrary desire, because his sympathies were with that country, in which he had honorably established himself as a civil engineer; that the foregoing statement is the truth, and that he ratifies it, signing it in the presence of the consular agent.

BENITO SOLER.

I hereby certify that the foregoing was declared under oath in my presence, and that the above signature is the true and genuine signature of Mr. Benito Soler.

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 5 in No. 117.]

At Bahía de Caráquez, on the 7th day of April, 1885, appeared at this consular office, Mr. E. A. Santos, and declared under the constitutional oath that he knew that Mr. Julio R. Santos, an American citizen by naturalization, left this country at the age of eleven or twelve years for the United States of North America; that he studied there until he obtained a diploma as engineer, remaining in the country for fourteen years and leaving it but twice for a short time for the purpose of visiting his family; he returned here in the year 1879 for the purpose of establishing a mercantile house with his brothers. As I was on terms of intimacy with these gentlemen I can positively assert that the positive desire of Mr. Julio R. Santos was the establishment of a commercial house in New York, so that he might go there to live with all his family. With this view Santos E. Santos made a trip to New York last year, and during my stay in this city I learned that the house had begun operations. Further particulars concerning this can be given by Messrs. Brentich Brothers and Mr. Antonio Martinez, who was retained in this city to act as an employé of the new firm.

E. A. SANTOS.

I hereby certify that the foregoing deposition was declared under oath by the above-mentioned E. A. Santos, and that the above signature is the true and genuine signature of said E. A. Santos, signed in my presence.

E. D. GODDARD,  
*United States Consular Agent.*

[Inclosure 6 in No. 117.]

At Bahía de Caráquez on the 7th day of April, 1885, appeared Mr. Mariano Santos before me, E. T. Goddard, consular agent of the United States of North America in this port, and making oath before God our Lord, and making the sign of the cross, declared that he would tell the truth as to all that he knew with regard to the intention of Mr. Julio R. Santos to return to North America to live. The undersigned is aware that Mr. Julio R. Santos, in all the conversations he had with him, declared that he did not intend to remain in Ecuador, but that he intended to return to North America as soon as possible, for which purpose they were going to establish a house in New York. It is some time since he told me this, since he returned from the United States. I likewise know that Mr. Julio R. Santos was never willing to accept any office in Ecuador, however much he was urged by his friends to do so; he always

said that he could not accept any office because he was a North American citizen. The foregoing is the truth, under the oath taken by him, which he ratifies in the presence of the consular agent.

MARIANO SANTOS.

Certifying that the foregoing was declared under oath in my presence, and that the above signature is the true and genuine signature of said Mariano Santos.

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 7 in No. 117.]

At Bahia de Caráquez, on the 7th day of April, 1885, appeared at this consular office Mr. Juan B. Santos, and took the constitutional oath, and declared in accordance therewith that he knew that Mr. Julio R. Santos has always intended to return to establish his residence in the United States of North America, he having so declared on many occasions in his private conversations. He is also aware that during the time that the undersigned held the office of the political chief of this district he was unable notwithstanding all his efforts to induce the aforesaid Mr. Santos to accept any office whatever, he always declining on the ground of his being an American citizen. The foregoing is the truth in accordance with the oath taken by him, he being of full age, married, and a Roman Catholic.

J. B. SANTOS,  
*Ex-Political Chief of the District of Sucre.*

Certifying that the foregoing declaration was given in my presence, under oath, and that the signature of said Mr. J. B. Santos is his true and genuine signature, signed in my presence.

E. T. GODDARD,  
*United States Consular Agent.*

No. 100.

No. 118.]

*Mr. Reinberg to Mr. Porter.*

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, April 17, 1885. (Received May 5.)*

SIR: I beg to inclose you copies of declarations made before me by Señor J. C. Zedeño and Señor B. Monje, affirming Mr. Santos's intention to return to the United States, both these gentlemen being merchants of good character.

I am, sir, your obedient servant,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

[Inclosure 1 in No. 118.]

REPUBLIC OF ECUADOR,  
*Province of Guayaquil, April 16, 1885.*

B. Monje, being duly sworn, says, I reside in Guayaquil, and am a merchant, and I have resided five years in Bahia since the year 1880, to the year 1885, and know Julio Romano Santos, of the firm of Santos Hina Hermanos since the year 1880. Further, I know he has lived in the United States of North America since about the year 1865, and that he returned to Bahia in the year 1879. Further, I say that to my personal knowledge during the temporary residence of Julio Romano Santos in the city Bahia de Caráquez, and this country, Ecuador, since the year I knew him 1880, until December of the year 1884, has at all times refused to serve in the national guard of Ecuador, and refused to accept any state appointments in this same country, Ecuador, declaring Julio Romano Santos to his friends and authorities of Ecuador that he is a



citizen of the United States of North America, and not having the intention to reside in Ecuador, or at least to give up his rights as a citizen of the United States of North America.

B. MONJE.

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador.*

I, Martin Reinberg, vice-consul-general of the United States at Guayaquil, do hereby certify that the within declaration was sworn to before me, and subscribed by B. Monje, a merchant of this city, in my presence.

Guayaquil, April 17, 1885.

MARTIN REINBERG,  
*United States Vice-Consul-General.*

[Inclosure 2 in No. 118.]

REPUBLIC OF ECUADOR, PROVINCE OF GUAYAS,  
*City of Guayaquil, April 17, 1885.*

José C. Zedíño made oath in due form and declared:

(1) I reside at Bahía de Caráquez, and did so previously to 1879; I am a merchant, and have known Julio R. Santos since the year 1879.

(2) I declare that Julio R. Santos came to the city of Bahía de Caráquez in the year 1879; I know that he lived in the United States of North America from the year 1865 until 1879.

(3) I declare that I know that during the temporary stay of Julio Romano Santos in this city of Bahía de Caráquez, and in Ecuador from the year 1879 until 1884, he has constantly refused to serve in the national guard of Ecuador, and he has likewise refused to accept public offices from this same country, Ecuador; always telling his friends and the authorities of Ecuador that he is a citizen of the United States of North America, and that it has not been, nor is it his intention to reside in Ecuador, much less to relinquish his rights as a citizen of the United States of North America.

J. C. ZEDÍÑO.

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador.*

I, Martin Reinberg, vice-consul-general of the United States of America at Guayaquil, do hereby certify that the within declaration was subscribed and sworn to before me by J. C. Zedíño.

Guayaquil, April 17, 1885.

MARTIN REINBERG,  
*United States Vice-Consul-General.*

No. 101.

*Mr. Beach to Mr. Hunter.*

No. 35.] UNITED STATES CONSULATE-GENERAL, ECUADOR,  
*Quito, April 22, 1885. (Received May 18.)*

SIR: In my last dispatch, dated the 11th instant, I informed the Department of State that the question of the citizenship of Mr. Julio R. Santos had been referred to Washington to be determined between the Department of State and Minister Antonio Flores.

I immediately instructed the vice-consul-general at Guayaquil to forward all evidence in his possession and a copy of Consular Agent Goddard's letter of April 4, in which he describes a visit to and interview with Mr. Santos. I also instructed Mr. Goddard, consular agent, to send *direct* to the Department of State (for the purpose of facilitating their arrival) any declarations that had not been furnished to the Guay-

aquil office. By the time this is received all the procurable information upon the subject referred to should be in Washington.

Subsequent to the forwarding of my last dispatch I received the accompanying documents from Mr. Santos, which do not relate to his citizenship, but which will be very valuable to the Department in determining its line of action in case it is decided that Mr. Santos is a citizen of the United States.

I am, respectfully, yours,

HORATIO N. BEACH,  
*Consul-General.*

[Inclosure 1 in No. 35.]

*Mr. Parreño to Mr. Jaramillo.*

(Delivered at noon February 4, 1885, Molina.)

**MOST EXCELLENT SIR:** I, Julio R. Santos, a citizen of the United States of North America, and a merchant, established at Bahia de Caráquez, respectfully represent to your excellency that fifty-six days ago I was arrested by one Colonel Ganja, without knowing by the order of what civil or military authority or for what cause. During the time that I have been under arrest I have been kept as a prisoner on board the national war steamers called the Nueve Julio and the Huachon. My situation on board of those vessels has been one of real torture. I have been taken from Esmeraldas to Bahia, Manta, &c., until finally I have been brought to this city. During this long period I have been kept in solitary confinement; no statement of mine has been received, and I have not been notified of any judicial order whatever; I have only been verbally required on various occasions to pay over the sum of \$30,000 as a condition of being set at liberty.

As by the constitution of the Republic foreigners enjoy the same guarantees as natives, and as I do not consider legal the infliction of a punishment without previous trial and sentence, I have refused to pay the aforesaid sum, and have borne with resignation the physical and moral sufferings by which it was sought to compel me to do so.

My Government at Washington has addressed the consul residing at Guayaquil in my behalf, and, in obedience to its instructions, that officer has addressed the Government of Ecuador, and has elicited the fact that the latter Government had not the slightest knowledge of what has been done to me, and, as that irregular situation continues with respect to me, I make this statement to your excellency, transmitting to you the original communication which has been addressed to me by the American consul, residing at Guayaquil, to the end that your excellency in the exercise of power No. 1, which, in such cases is granted to me (you) by article 29, of the organic law concerning the judiciary, and in discharge of the corresponding responsibility, may be pleased to issue suitable orders for the administration of justice in my case.

Porto Viejo, February 4, 1885.

JULIO R. SANTOS.

Porto Viejo, at 1 o'clock in the afternoon, on Wednesday, the 4th day of February, 1885.

Let the judge of the province report concerning the complaint contained in the foregoing petition.

BENITES.

Dr. Vicente Benites, minister resident of the superior court of justice, has issued and signed the foregoing order.

Porto Viejo, February 4, 1885, at 1 o'clock p. m.

Before me.

MOLINA.

On the same day I notified Julio R. Santos of the foregoing order.

JULIO R. SANTOS.  
MORA,  
*Chief Clerk.*

**MOST EXCELLENT SIR:** As I have not acted in the prosecution on account of crimes and offenses committed against the internal security of the Republic, I have no knowledge relative to the matter concerning which I am instructed to report. Your excellency may instruct the second municipal judge (who is acting in my place, and to whom the process is addressed by the associate judge, who has knowledge of the fact that I have not acted) to make a report in explanation of the application of Mr. Julio Santos. The foregoing is all that I have to report in deference to the truth.

Porto Viejo, February 4, 1885.

FRANCISCO JAN'S PARREÑO.

PORTO VIEJO, *Thursday, February 5, 1885—2 o'clock p. m.*

It is known that the report of the preliminary examination of the petitioner has been sent by the authorities of the district of Sucre, and the said report must now be in the proper court which tries criminal cases. Consequently let the judge of that court amplify his report concerning this matter without confining himself to giving an account of the preliminary examinations of the other prisoners, but simply their present condition and needs.

BENÍTES.

Dr. Vicente Benites, minister resident of the superior court of justice, has issued and signed the foregoing order.

Porto Viejo, February 6, 1885, 2 o'clock p. m.

Before me.

MOLINA.

**MOST EXCELLENT SIR:** Up to the present hour I have no knowledge of any preliminary examination held at Caráquez on account of political offenses, much less or any held in the case of Mr. Julio Santos. This is all that I can say in reference to the truth.

Porto Viejo, February 5, 1885.

PARREÑO.

PORTO VIEJO, *Friday, 6, 1885—1 o'clock p. m.*

Let the judge, in view of the foregoing application and order, amplify his report as speedily as possible.

BENITES.

Dr. Vicente Benites, minister president of the superior court of justice, issued and signed the foregoing order.

Porto Viejo, February 6, 1885, 1 o'clock p. m.

Before me.

MOLINA.

**MOST EXCELLENT SIR:** I fulfill the duty which your excellency has ordered me to fulfill by stating that, with regard to the matters contained in the application of Mr. Julio Santos, I have no official information in regard to any of them, inasmuch as I have received no communication from the governor of the province placing Mr. Julio Santos in the power of the court which has not ordered his arrest and imprisonment and has issued no order for his prosecution, because it has had no legitimate information such as to warrant it in proceeding against Mr. Julio Santos.

Porto Viejo, February 6, 1885.

FRANCISCO JON'A G. PARREÑO.

[Porto Viejo, 2 o'clock p. m., Saturday, 7th of the current year and month.]

Request the governor of this province to be pleased to report with regard to the foregoing application and complaints.

BENITES.

Dr. Vicente Benites, minister president of the superior court of Manabi and Esmeraldas, issued and signed the foregoing order at the date and hour mentioned.

Before me.

MOLINA.



REPUBLIC OF ECUADOR, GOVERNMENT OF MANABI,  
*Porto Viejo, February 9, 1885.*

*To his Excellency the president of the superior court, present :*

The undersigned, governor of the province, in obedience to your order, hereby states that under date of December 2 and 20 he instructed the criminal judge to institute proceedings against all those charged with rebellion against public order in the Republic and with seeking to overthrow the constitutional Government. In both communications the name of Mr. Julio R. Santos appears in the inclosed lists as a ringleader and accomplice. In the case conducted at Bahia, grave charges were preferred against Santos, and that gentleman was arrested at Ligna, or I know not where, with a party of armed men, more than thirty large boxes of percussion caps, warlike equipments, &c. At the house of Santos Hevia two or three hundred Remingtons were found, and in the vault where the body of Antonio Santos, the father of the accused, is deposited, about forty boxes of metallic cartridges were found. This gentleman ought to be a little more scrupulous about asserting his innocence, and the judge who had charge of the case must have taken the usual steps, because it is public and notorious that all the revolutionary prisoners were arrested in this town. The parties who make complaints should prefer direct charges, and not trouble the court of which you are president with improper requests; for it is the duty of the political authorities to prosecute and keep them in safety without trespassing upon the powers of the judiciary. God guard you.

JOSE AV P. M. GARCIA.

PORTO VIEJO, *February 9, 1885—3 o'clock p. m.*

Let the foregoing report be communicated to the petitioner, and let him exercise his right as he may think proper before the proper authorities.

BENITES.

Dr. Vicente Benites, minister president of the superior court of justice, issued and signed the forgoing order.

Before me.

MOLINA.

PORTO VIEJO, *February 9, 1885—3 o'clock p. m.*

MONTE-CRISTI, *February 18, 1885.*

First municipal court of the district.

MR. JULIO R. SANTOS: In the proceedings instituted by his honor the judge of the province for the crime of rebellion against the legitimate Government, of which you have this day been duly notified, the aforesaid judge has ordered me to send you the present constitutional notice that you are to be confined in the barracks of this city as being charged with the crime above mentioned. God guard you.

P. ENRIQUE DELGADO.

[Inclosure 2 in No. 35.]

Copy of the decision pronounced at Porto Viejo, March 28, 1885, at 12 o'clock m.

This preliminary examination, which has suffered many delays to the prejudice of the prisoners, owing to my long continued illness, to my absence, and that of the municipal alcaldes, to the wants of persons able to act as Government attorneys, clerks, or witnesses for the prosecution, must now be put in such shape that it may be brought to a speedy conclusion. Therefore, as the reasons which have prevented me from acting no longer exist, having somewhat recovered my health, and the time of my leave of absence being at an end, although the proceedings have not been strictly according to law, since the Government attorney confined himself to expressing an opinion only with regard to the applications for release on bail, and the summonses were not issued owing to the fact that the prisoners were in the barracks at Monte Cristi by order of other authorities, the pending questions are now to be determined, as is also the course to be pursued in the preliminary examination.

Application has been made by some prisoners for release on bail. Some of them have applied for the pardon granted by the officer in command of the vanguard, General Reynaldo Flores, in order to secure the conclusion of this preliminary examination. It has been asked that the decision may be revoked which orders the consolidation of proceedings for conspiracy with those brought on account of crimes against the domestic security of the Republic committed by means of armed forces, and other applications have been presented which have not been granted. For the decision of all these points it is necessary to take into consideration the data in possession of the court that may assist it in pronouncing a legal decision. Consequently, the voluminous documents in the case having been examined, it is observed that the preliminary examination was a legal one, which was instituted by this court, with a view to eliciting the facts of the conspiracy formed by Thomas Jesus Caballos in this district and extended at the request of the Government attorney so as to embrace the conspiracy set on foot in other places, and proceedings against other persons have been instituted by this same court, with a view to investigating the reality of the seditious movements, which were almost conspiracies, which took place in the parish of Calcuta, the persons engaged in which cheered ex-General Eloy Alfaro and expressed in a loud voice their hatred of the President of the Republic, whom they declared their intention to kill.

It is also proposed to investigate the reality of the crimes and offenses committed by force of arms against the domestic security of the Republic by many, either as principals or as accomplices or as abettors. The documents sent by the Government of this province and by other authorities, although they do not deserve the name of papers connected with a preliminary examination, since they lack the legal requisites, either because they were drawn up by incompetent authorities or were mere copies of other documents,\* are nevertheless papers which the court must take into consideration as a basis of its proceedings. From these documents it appears (1) that the conspiracy set on foot about the middle of last year became a regular revolution under the leadership of ex-General Eloy Alfaro, consummated by the pronunciamientos issued at Monte-Cristi Charapotó, and Calcuta, and by the revolutionary declaration in this capital, by the occupation of this city by the forces of Alfaro, and by the battles of Monte-Cristi, Picosá, Charapotó, this capital, and the naval battle which took place in the waters of this province; (2) that there are sufficient presumptions against those whose names appear in the lists prepared to consider them as principals, accomplices, or abettors, since from the combination of articles 110 and 125 of the code of E. E. C. C., it is evidently inferred that written proof of such presumptions being unnecessary, those which are based upon proceedings which are null and void are of sufficient value, it being necessary only to fulfill the condition prescribed by the first article, which has already been done, and it being unnecessary for the preliminary examination to be concluded, since the terms of the aforesaid articles 110 and 125 are contradictory.

Consequently, the offenses which have been inquired into being comprised in chapter 3, book 2, of the penal code, and the said offenses being punishable with imprisonment for a long or a short term, the applications for release on bail are denied, with the exception of that of José Reyes, of Picosá, because it does not yet appear that any charge has been made against him, and that of Manuel Alcivas, who, being furnished evidence that when he committed the offense he was under fifteen years of age, is favored, articles 84, 85, 86, and 137 of the aforesaid code; these persons must consequently furnish bail, or if they have already done so and have relinquished it, they are at liberty to furnish it again. The pardon, which is asked, being contrary to the fourteenth paragraph of article 62 of the constitution, has no legal value that can enable it to serve as the basis of the conclusion of this examination, and consequently there is no ground for granting this request. It is manifest, as has been stated, that the conspiracy became a genuine revolution, and therefore the conspiracy and the revolution being comprised in chapter 3, title 1, book 2 of the aforesaid penal code, and both of them being determinate crimes and offenses, there is no general inquiry as to crimes, still less as to persons, since an inquiry is addressed to those who were responsible therefor. Consequently, and since the unity of the cause would be impaired, inasmuch as the provisions of article 319 of the code of E. E. C. C. would be violated, the revocation of the sentence ordering the consolidation is refused, especially since the same parties who are found to have been guilty of the offenses against the domestic security of the Republic have been found guilty of engaging in the conspiracy, and since the preliminary examination relative to the latter are now at an end, and may serve as a guide in the new examination which is being prepared. This order having been published, let the process issue to decide concerning the petitions which have not yet been decided. Let a list be prepared of those who are to be notified of the prosecution and other legal measures; let the process be properly made out, and let the papers be issued to the judges of other jurisdictions, and let the

\* This portion relates to the preliminary examination held at Caráquez and other places.

Government be requested to return the prisoners to this city, to the end that the examination may be speedily concluded, and that the necessary testimony may be taken. Let a copy of this order be transmitted to the Government, in order that it may inform the honorable minister of foreign relations, and also the honorable minister of justice.

A copy.

G. PARREÑO.

S. JARAMILLO,  
*Secretary of the Treasury.*

No. 102.

*Mr. Reinberg to Mr. Porter.*

No. 120.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, April 30, 1885. (Received May 18.)*

SIR: I have the honor to inclose you herewith five declarations relative to the case of Julio Romano Santos. Of these affidavits two were forwarded by Consular Agent Goddard, and the three others were duly declared before me in this consular office.

I am, sir, &c.,

MARTIN REINBERG.

[Inclosure 1 in No. 120.]

At Bahia de Caráquez, on the 18th day of April, 1885, before Mr. E. T. Goddard, consular agent of the United States of North America in this port, appeared Mr. Virgilio Stopper, who, making oath before God our Lord, and making the sign of the cross, declared that he would tell the truth with regard to the intention of Mr. Julio R. Santos to return to North America to live. The undersigned is aware that since his early childhood he has heard that Mr. Julio R. Santos was being educated in North America, whence he returned a few years ago; that, being a clerk in the employ of Messrs. Santos, Hevia & Brothers, he had always heard that he was going to New York for the purpose of settling there, and that, being municipal secretary, he knows that both Mr. Gumerindo Nillacis and Mr. Juan B. Santos, both of whom held the office of political chief of the district, requested Mr. Santos to accept a municipal office, which he refused to do, on the ground that he was a North American citizen, and that he would soon go to that country, to which he was bound by ties of affection.

VIRGILIO STOPPER.

I hereby certify that the foregoing was declared under oath by Mr. Virgilio Stopper, who signed the above in my presence.

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 2 in No. 120.]

At Bahia de Caráquez, on the 18th day of April, 1885, appeared at this consular office Mr. Juan Polit, and having taken the constitutional oath, he said that he knew that Mr. Julio R. Santos, a citizen of the United States of North America by naturalization, left this country for the United States in his childhood; that he studied there until he received a diploma as engineer, and that he remained in the country for fourteen years, leaving it but twice for the purpose of visiting his family; that he returned here in the year 1879 for the purpose of establishing a mercantile firm in connection with his brother; that, being on terms of intimacy with these gentlemen, he can positively assert that the constant desire of Mr. Julio R. Santos was the establishment of a commission house in New York, that he might settle there with his family; that, with this view, his brother, Santos E. Santos, took a trip to New York last year, and he had heard it said that the house had begun operations; that he



knows that Mr. Julio R. Santos has not been willing to hold any public office in this country, always asserting his rights as a citizen of the United States of North America.

JUAN PÖLIT.

I hereby certify that the foregoing was declared in my presence under oath by Mr. Juan Polit, and that the above signature is the true and genuine signature of said Juan Polit.

E. F. GODDARD,  
*United States Consular Agent.*

[Inclosure 3 in No. 120.]

REPUBLIC OF ECUADOR, PROVINCE OF GUAYAS,  
*Guayaquil, April 10, 1885.*

Manuel Navares made oath in due form and declared: (1) I have resided in Guayaquil since the year 1884; previously to that time I resided at Bahia de Caráquez; I am an owner of real estate, and I have known Julio Romano Santos since his childhood; (2) I know that he lived in the United States of North America from the year 1865 until the year when he returned; (3) I declare that I know that during the temporary residence of Julio Romano Santos in the city of Bahia de Caráquez, and in Ecuador from the year in which he returned until the year 1884, he always refused to serve in the national guards of Ecuador; he likewise refused to accept public offices from this same country, constantly declaring to his friends and the authorities of Ecuador that he was a citizen of the United States of North America, and that his intention had not been and was not to reside in Ecuador, much less to relinquish his rights as a citizen of the United States of North America.

MANUEL NAVARES,  
*United States Consulate-General, Guayaquil, Ecuador.*

I, Martin Reinberg, vice-consul-general of the United States at Guayaquil, do hereby certify that the within declaration was subscribed and sworn to before me by Manuel Navares.

[SEAL.]

MARTIN REINBERG,  
*United States Vice-Consul-General.*

GUAYAQUIL, April 10, 1885.

[Inclosure 4 in No. 120.]

REPUBLIC OF ECUADOR, PROVINCE OF GUAYAS,  
*Guayaquil, April 30, 1885.*

Francis R. Lozano made oath in due form and declared as follows: (1) I resided at Canoa, 3 miles from Bahia de Caráquez, previously to the year 1879; (2) I am a merchant, and have known Julio Romano Santos since the year 1879; (3) I declare that Julio Romano Santos came to the city of Bahia de Caráquez in the year 1879; (4) I know that he lived in the United States of North America from the year 1865 until the year 1879; (5) I declare that I know that during the temporary residence of Julio Romano Santos in the city of Bahia de Caráquez, and in Ecuador from the year 1879 until the year 1884, he always refused to serve in the national guard of Ecuador, and that he likewise refused to accept public offices from this same country (Ecuador), constantly declaring to his friends and to the Ecuadorian authorities that he was a citizen of the United States of North America, and that it had not been and was not his intention to reside in Ecuador, much less to relinquish his rights as a citizen of the United States of North America.

FRANCISCO R. LOZANO.

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador.*

I, Martin Reinberg, vice-consul-general of the United States at Guayaquil, do hereby certify that the within declaration was subscribed and sworn to before me by Francisco R. Lozano, merchant.

[SEAL.]

MARTIN REINBERG,  
*United States Vice-Consul-General.*

GUAYAQUIL, April 30, 1885.

[Inclosure 5 in No. 120.]

REPUBLIC OF ECUADOR, PROVINCE OF GUAYAS,  
*Guayaquil, April 30, 1885.*

José Rosario Cedeño made oath in due form and declared as follows: (1) I have resided in the province of Manabí since the year 1879; (2) I am a merchant, and I have known Julio Romano Santos since the year 1879; (3) I declare that Julio Romano Santos came to the city of Bahía de Caráquez in the year 1879; (4) I know that he lived in the United States of North America from the year 1865 until the year 1879; (5) I declare that I know that during the temporary residence of Julio Romano Santos in the city of Bahía de Caráquez, and in Ecuador from the year 1879 until the year 1884, he always refused to serve in the national guard of Ecuador; that he likewise refused to accept public offices from this same country (Ecuador), constantly declaring to his friends and the Ecuadorian authorities that he was a citizen of the United States of North America, and that it had not been and was not his intention to remain in Ecuador, much less to relinquish his rights as a citizen of the United States of North America.

JOSE R. CEDEÑO.

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador.*

I, Martin Reinberg, vice-consul-general of the United States at Guayaquil, do hereby certify that the within declaration was subscribed and sworn to before me by José R. Cedeño.

MARTIN REINBERG.

[SEAL.]

GUAYAQUIL, *April 30, 1885.*

No. 103.

*Mr. Bayard to Mr. Beach.*

No. 30.]

DEPARTMENT OF STATE,  
*Washington, May 1, 1885.*

SIR: Since the date of the last instruction to you in relation to the case of Julio R. Santos, the Department has received your dispatches No. 26, of February 28, 1885, and Nos. 29 and 30, of March 21, 1885; and also Mr. Reinberg's dispatches Nos. 108 and 109, of March 24 and 27, 1885, and his No. 114, of the 18th ultimo, all on the same subject.

The Department has also received a number of affidavits from parties in the United States, testifying their knowledge of Mr. Santos's intention to retain his domicile in the United States, here to maintain and fulfill his rights and duties as a citizen of this Republic. Copies of these affidavits are hereto annexed, and taken with those which you have obtained and forwarded in obedience to my telegraphic request, they establish the intention to return to the entire satisfaction of this Government. They thus meet the only ground which the Government of Ecuador has found for opposing the right of the United States to intervene in this case, and dispose of the assumption that by the naked fact of two years' residence in Ecuador Mr. Santos has renounced his acquired and resumed his original allegiance.

The provision in respect of two years' residence in the original country, after return thither, which is found in most of our naturalization treaties, is designed to afford presumptive evidence merely of the *intent* which is necessary to a valid resumption of the original allegiance. That presumption, like any other presumption, is open to rebuttal by satisfactory evidence, and the right of such rebuttal is inherent in the case and available in the party's behalf, even where the treaty may be silent on the point. In our treaty with Ecuador, however, the right of rebuttal of the presumption of intent which may grow from two years'

residence is expressly stipulated, and this point is therefore removed from the field of argument.

It is part of the sovereignty of every nation to prescribe the terms on which the allegiance of its own citizens shall be acquired and preserved. In the treaty with Ecuador the United States waive a part of such right of decision by admitting that two years' residence in Ecuador may create a presumption that their citizen intends to remain there. By stipulating for the right of rebuttal evidence on this point of intention, the United States wholly and absolutely regain that right of deciding as to the status of their citizens in a given case. That right is not transferred in any part to Ecuador; it is to be exercised exclusively by the United States as an attribute of their sovereignty. And Ecuador cannot meet that reserved right by any mere denial of the sufficiency of the rebutting evidence which may be satisfactory to the United States. The only privilege of surrebuttal, which might remain open to Ecuador would be to show that the party had done some act working an overt, voluntary, and positive renunciation of his United States citizenship of which the laws of Ecuador take cognizance, or which they may prescribe as a condition to the acquisition or recovery of Ecuadorian citizenship. In other words, no surrebuttal is admissible as to intent, but must rest on the full ascertainment of legal fact.

This Government has pushed its construction of the sufficiency of the rebutting evidence beyond the needs of what would have been enough in any ordinary case in order that its conclusion, when reached, should not only be final as of right, but convincing also to the Government of Ecuador, to which it may be communicated as a matter of courtesy.

This conclusion is that the rebutting evidence submitted by and on behalf of Mr. Julio R. Santos establishes his continuous intent to return to the United States, here to discharge the duties of an American citizen; and it furthermore establishes his open and continuous assertion of his American citizenship during the whole period of his sojourn in Ecuador.

This Government must therefore hold that the question of Mr. Santos's citizenship, under the treaty clauses is no longer debatable, and must likewise hold and firmly insist that Mr. Santos's rights as a citizen of the United States shall be respected in all matters touching any charge which may have been or be preferred against him of violating the laws of the land of his temporary sojourn. We insist that in the event of such charges being brought against him he shall have immediate and full cognizance thereof, with every opportunity and guarantee of defense in open trial as completely as any other citizen of the United States would be entitled to in Ecuador, or as any citizen of Ecuador would be entitled to and would receive if on trial in the United States. We insist that if no charges be forthcoming, or no trial held without delay, he shall be released. And we insist further that in respect of his property, real or personal, within the jurisdiction of Ecuador, he shall have the same absolute and perfect protection at the hands of the Ecuadorian authorities, and through the official intervention of the representatives of the United States as any other citizen of the United States would be entitled to and must receive under existing treaties and under the law of nations.

In addition to the affidavits, of which copies are transmitted herewith, I send you copy of the opinion on Mr. Santos's case prepared by the law officer of this Department, in whose conclusions I concur.

In presenting these facts and conclusions to the Government of Ecuador, you will point out that this Government has strained the point of



courteous deference to the contention of that of Ecuador to the uttermost, and that an American citizen has lain in prison in Ecuador for months without trial, and virtually without knowledge of any tangible accusation against him on which trial might be had, pending submission to this Government of the proof of citizenship, and pending the conscientious examination of that proof. The delay which has thus supervened in the conduct of this case having been now removed and an impartial, equitable, and final conclusion of the question of disputed citizenship having been reached, no further delay in doing justice to Mr. Santos can be expected from the Government of Ecuador, or be permitted by the Government of the United States, without condoning a manifest evasion of the treaty obligations of Ecuador to the continued and wrongful prejudice of a citizen of the United States, whose just rights the President is bound to protect, and will protect, by all the means within his constitutional power.

This instruction will be handed to you by Commander Mahan, of the U. S. S. Wachusett, who revisits the waters of Ecuador by direction of the Secretary of the Navy for that purpose. Commander Mahan will be instructed to remain within reach pending the prompt disposal of Mr. Santos's case, and, in the probable event of his release, he will be afforded an opportunity to return to the United States on the Wachusett, by way of Panama, should he so desire.

The energy shown by you and Mr. Reinberg in the conduct of this matter hitherto deserves commendation, and it is trusted that your continued zeal and good judgment will help to bring about under the present instruction a speedy and satisfactory ending of this already too long delayed case.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 30.—Report No. 37.—Imprisonment of Julio Santos by authorities of Ecuador.]

LAW BUREAU, April 30, 1885.

*To the honorable the Secretary of State :*

SIR: So far as concerns the evidence contained in the annexed papers, there can be no question that Julio R. Santos is a domiciled citizen of the United States. It is very rarely that in cases of this class such strong evidence is produced. The acquaintances of Mr. Santos, who are brought up to testify as to his history and his expectations, are not persons who would either observe carelessly or speak lightly. They include a series of college officers and students of high character, with whom he has passed a number of years, and business associates, who would best know his plans. It is impossible to ascribe to persons of this class either want of opportunities of knowledge, or want of conscientious accuracy. And the case is one of more interest because it represents a type of much importance to the business welfare both of the United States and of the countries with which we are brought into close mercantile relations. It is highly conducive to the beneficial developments of these relations that in selecting selling and other agents in a foreign land, our producing and manufacturing houses should be able to avail themselves of the services of such natives of the countries to be dealt with as have become citizens of the United States. In this way we obtain for ourselves the agent's knowledge of the language and other conditions of the country to which he is sent, while, from the fact of his naturalization in the United States, we have a political hold on him, and are able, to some extent, to guarantee his personal rights. Hence it is a common practice of our great producing and exporting houses to send to Europe, as well as to South America, agents who are natives of the country of their agency, but who have intermediately become loyal citizens of the United States. There can be no doubt that this practice has proved very beneficial to the country of the agency, as well as to the country from which the agent is sent forth. To limit such an agency to two years would greatly destroy its efficiency. By the rules of international law, as recognized by all civilized nations, an agent of this class may live and do business in the place of his agency (if his intention is to return to dwell permanently in the place from which

he is sent) without requiring a domicil, or being subjected to a citizenship in the place of his agency. Nor, so far as concerns citizenship, is this rule modified by the treaty between the United States and Ecuador. That treaty, so far as concerns the present issue, is as follows:

#### ARTICLE III.

A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there without returning to that where he was naturalized.

*This presumption, however, may be rebutted by evidence to the contrary.*

This is equivalent to saying that when such a citizen's intention to return to the United States is shown, his citizenship of the United States remains. It is true that while Mr. Santos, though a domiciled citizen of the United States, is resident in Ecuador, he is subject to the penal laws of Ecuador, and that mere alienage, or United States citizenship, will not be a defense if he be tried for treason or other offense against Ecuador. But though this is conceded, the Government of the United States must insist that the trial in such a case, if it be pressed, must be conducted according to the rules of international law; and if it be not pressed, that Mr. Santos must be released; and the rules of international law in this respect are that the party charged should be entitled to have counsel, to summon witnesses in his behalf, to cross-examine the witnesses produced against him, and to have a prompt trial. Any invasion of these sanctions will be regarded by the United States Government as a matter of grave concern. Nor is the solemnity of the protest here made weakened by the documents that have come to the Department within the last few days from the United States consul at Guayaquil. The case has undoubtedly been brought before a local judge of Ecuador, but instead of the release or trial of Mr. Santos being ordered, we are told that while the proceedings heretofore held against him are invalid and nugatory and the evidence is worthless, yet Mr. Santos must be remanded to prison. It is impossible for the Government of the United States to view, without serious dissatisfaction, such permanent imprisonment, on evidence admitted to be invalid, of a citizen of the United States of unblemished character, engaged temporarily in Ecuador in a line of business whose maintenance is at least as important to Ecuador as to the United States.

All of which is respectfully submitted.

FRANCIS WHARTON,  
*Law Officer, &c.*

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[Inclosure 2 in No. 30.]

UNITED STATES OF AMERICA, STATE OF NEW YORK,  
*City and County of New York to wit :*

Albert J. Berntich, being duly sworn, says :

I reside in the town of Westfield, N. J., and am engaged in business at No. 76 Broad street, in the city of New York, under the firm name of Berntich Brothers. In the year 1881 my said firm had business transactions with the firm of Santos Hevia, Hermanos, of Bahai le Caráquez, in the Republic of Ecuador, of which latter firm Julio Romano Santos was and is a member. In the month of May or June, 1881, Mr. Santos E. Santos, the brother of said Julio Romano Santos, was in the city of New York, and to my knowledge was engaged in making arrangements on behalf of his said brother Julio to open a branch house of said firm in the city of New York, of which branch house his said brother Julio was to take charge as soon as he returned New York. I was informed by Santos E. Santos that Mr. Julio Romano Santos was then making arrangements and intended to return to the United States as soon as his said brother Santos E. Santos, who was then in New York, could return to Bahai de Caráquez, Ecuador, where said firm of Santos, Heiva Hermanos had its principal place of business.

I further say that I and my partners since that date have been expecting and anticipating the return of said Julio Romano Santos to this country, but we became aware that the condition of the business of his firm, in Ecuador, prevented him, from time to time, from carrying out his intention of returning to the United States.

I further say that I and my partners have, at all times, since the month of May or June, 1881, believed, and we do still believe, that the stay of said Julio Romano Santos in Ecuador was only temporary, that is, until he could get the business affairs of his firm in Ecuador into such a condition that he could safely return to the United States.

I further say that in the month of April, 1884, I and my partners were informed that said Julio Romano Santos was finally making arrangements to return to the United States, and that he intended to bring with him some of his relatives; his intention being to establish said branch commission house in the city of New York. In that month, namely, in April, 1884, his brother, Santos E. Santos, called on me and desired to engage my services for the new house, which he, Julio Romano Santos, so intended establishing in the city of New York, and I had intended joining the new house which said Julio Romano Santos was so about to establish and would have done so but for the arrest of said Julio Romano Santos in Ecuador.

I further say that during the whole period of my acquaintance with said firm of Santos, Hevia Hermanos I have always regarded, and I still regard, the said Julio Romano Santos as an American citizen, who was temporarily absent from the United States on business, and who had no intention of either abandoning his residence or his citizenship in the United States.

I further say that Santos E. Santos is now in Panama.

ALBERT J. BERNTICH.

Sworn to before me this 21st day of March, 1885.

[SEAL.]

EDWIN B. WOODS,

*Notary Public, Kings County, certificate filed in New York County.*

[Inclosure 3 in No. 30.]

UNITED STATES OF AMERICA, STATE OF NEW YORK,  
*City and County of New York, to wit:*

José Antonio B. Martinez, being duly sworn, says:

I reside at No. 28 Waverly Place, in the city of New York, and have resided there about a week. Prior to my coming to New York I resided at Hagerstown, Md., where I arrived from Ecuador in April, 1884. Prior to my residence at Hagerstown I was a resident of Ecuador. I know Julio Romano Santos, of the firm of Santos, Hevia Hermanos, of Bahia de Caráquez, Ecuador, and have known him since boyhood. He came to the United States in or about the year 1865, being then about twelve or thirteen years of age, and entered as a student at Saint James College, Washington County, Maryland. He afterward entered the University of Virginia, where he graduated in the year 1873. He remained there as a professor or tutor after graduating until 1874, when he went to South America, remained there about three months, and then returned to the United States and remained for a time at the university, acting as professor until he received an appointment as engineer on the Baltimore and Ohio Railroad. Afterward, and in the winter of 1879 or 1880, he came to Bahia de Caráquez on a visit to his family and relatives there, whom he had not seen for some years. It was well known to myself and his relatives and friends that he had come to Bahia simply on a visit and with no intention of remaining there permanently.

His brothers had established a commission and export business with Europe and the United States, their place of business being at Bahia de Caráquez. Julio concluded to learn the business and to become a partner therein with his brothers, intending and contemplating as soon as he had mastered the business and as soon as the necessary arrangements could be made to open a house or place of business in the city of New York, for the transaction there of the business of the firm in the United States. Julio contemplated returning to the United States for that purpose in the year 1881, but owing to the condition of the business of the firm at Bahia he concluded to defer his return temporarily, and his return has been since that time, from time to time, delayed by various occurrences, but to my knowledge he has never abandoned nor given up his intention of returning to the United States, resuming his residence therein, and establishing said branch house in the city of New York. I further say that early in the year 1884 arrangements were definitely made for his return to the United States and his establishment of the branch house in New York City. His brother, Santos E. Santos, went to New York City in advance, and was making the preliminary arrangements which would precede the return of Julio, and said Julio was, as I believe, about to return to the United States, and had made all his arrangements for that purpose, or nearly so, when he was arrested in Ecuador, and has been ever since and still is detained in custody.

JÉ. A. B. MARTINEZ.

Sworn to before me this 20th day of March, 1885.

[SEAL.]

EDWIN B. WOODS,

*Notary Public, Kings County, certificate filed in New York County.*



[Inclosure 4 in No. 30.]

UNITED STATES OF AMERICA, STATE OF NEW YORK,  
*City and County of New York, to wit:*

Eugene F. Santos, being duly sworn, says:

I am temporarily residing at the town of Westfield, in the State of New Jersey. I am one of the brothers of Julio Romano Santos, mentioned in the annexed affidavits of Albert J. Berntich and Antonio Martinez. I further say that I have heard the said affidavits and each of the same read, and I know the contents thereof. I further say that the statements contained in said affidavits in reference to the residence and the citizenship of my said brother in the United States, and in reference to his connection with the firm of Santos, Hevia Hermanos, of Bahia de Caráquez, and his intention to return to the United States for the purpose of establishing in the city of New York a branch house of said firm, and in reference to his intention of permanently residing in the United States, are, and each of the same is, true, to my personal knowledge. I further say that, to my knowledge, it has been the intention of my said brother at all times since he became connected with said firm to return to the United States and establish in the city of New York a branch of said firm as soon as the arrangements necessary and proper for that purpose could be made, and that he has not at any time entertained, so far as I know or believe, any intention of abandoning his residence or his right as a citizen of the United States.

EUGENE F. SANTOS.

Sworn to before me this 20th day of March, 1885.

[SEAL.]

EDWIN B. WOODS,

*Notary Public, Kings County, certificate filed in New York County.*

[Inclosure 5 in No. 30.]

STATE OF MARYLAND, *Washington County:*

Be it known that before me the undersigned, a notary public of the State of Maryland, in and for Washington County, came Henry Onderdonk, on this 20th day of March, 1885, and deposed and made oath as follows:

That the said deponent is now principal of the college of St. James, in said county and State, and has been principal thereof since 1869; that previous to that time he was the principal of a school near the city of Baltimore, and that among his pupils, in the year 1864, were Flarico Santos, of Ecuador, South America, but now of London, England, and his brother Elio Santos, now a physician, and, as the deponent believes, now in the city of New York; that in the year 1865, Julio Romano Santos, now a prisoner in Ecuador, was entered as a pupil, and that the said Julio remained with him for several years, when he was joined by his brother Santos Elias Santos; that about the year 1868 the said Julio R. Santos entered the University of Virginia as a student, and that he was subsequently assistant professor of applied mathematics in that college.

That in 1881 the said deponent learned from Santos E. Santos that his brother Julio, after leaving the University of Virginia, was employed as a civil engineer on the Baltimore and Ohio Railroad, and that he had also occupied a professor's chair in the University of Alabama or some other Southern college; that in 1881 three other brothers, viz, Bonifacio, Alexander, Eugene, were placed under the care of said deponent for the purpose of education, especially in the English language, as New York would be their probable future home, as it was the intention to establish a commercial house in that city; that these three brothers remained at the college of St. James until September 15, 1884, excepting Bonifacio, who died in February, 1883.

That on the death of the said Bonifacio the deponent made such arrangements at his burial that the body could be removed to his former home in Ecuador, and that he so informed the relations of the deceased; that the said relations ordered the interment to be made permanent and a proper monument to be placed over the grave, giving as a reason that the family, or at least a large part of it, expected to remove to the United States; that the said three brothers, before the death of Bonifacio, upon receipt of letters from their home in Ecuador, frequently said that their brother Julio was coming to the United States and would bring their two younger brothers to the college of St. James, and their mother and sisters to New York to take up their residence in that city, but the death of Bonifacio, from its unhappy effect upon the mother, delayed this action on their part; that the said younger brothers came to the college of St. James, 1884, and are still there; that their cousin Antonio Martinez, a young

man of about twenty-six years of age, accompanied these boys to the United States to be connected with the house that Santos was to establish in New York, and that the said cousin resided at the college of St. James from July 18 to December 18, 1884, and is now in New York; that deponent was informed by the Santos family that the commercial house would be established on January 1, 1885, but subsequently that it was postponed by reason of the revolution at that time existing in Ecuador.

[SEAL.]

HENRY ONDERDONK,  
WM. S. WILLIAMSON,  
*Notary Public.*

[Inclosure 6 in No. 30.]

STATE OF MARYLAND,  
*Washington County:*

Be it known that on the 21st day of March, in the year 1885, that before me, a notary public of the State of Maryland, appointed in and for the said Washington County, appeared Dr. Henry U. Onderdonk, who, being duly sworn, deposes and says that he, the said deponent, is vice-principal and teacher of mathematics in the college of St. James, Washington County, Maryland.

That in May, 1881, he had a conversation with Santos Elias Santos, a brother of Julio Romano Santos, the said Santos E. Santos being then on a visit to the college of St. James, Washington County, Maryland, for the purpose of entering as pupils at the said college his three brothers, Bonifacio, Alejandro, and Eugenio.

That during this conversation, the deponent questioned the said Santos E. Santos concerning his brother, Julio R. Santos, who had been a school-mate of the deponent. The deponent asked if the said Julio R. Santos was still a professor at the University of Alabama, to which the said Santos E. Santos replied that Julio R. Santos had returned to Ecuador to assist in the business of the firm of Santos, Hevia Hermanos, thereupon the deponent expressed his surprise that Julio R. Santos should abandon a professional career for which he seemed so eminently fitted, for a mercantile life, and asked if it was probable that the said Julio R. Santos would remain in South America, to which Santos E. Santos replied that it was not likely, that a business life was not congenial to Julio R. Santos, and that the said Julio R. Santos had expressed his intention to return to the United State when certain business arrangements which were then pending in New York, were completed.

That in December, 1882, and in January, 1883, the deponent was told by Bonifacio and Alejandro Santos, brothers of Julio R. Santos, that they were expecting the said Julio R. Santos to come to the United States early in 1883, they having received letters from home to the effect that Julio R. Santos was to bring with him to the United States in February, 1883, two younger brothers to place at school.

In February, 1883, Bonifacio Santos, mentioned above, died. That in March, 1883, the deponent heard Alejandro Santos, aforementioned, say that the news of the death of the aforementioned Bonifacio Santos reached their home in Ecuador on the day before that which the said Julio R. Santos had appointed to sail for the United States with his younger brothers, and that all preparations had been made to sail upon the appointed day, but that the death of Bonifacio Santos had so affected his mother that she would not consent to the departure of her sons at that time, and that on this account Julio R. Santos's return to the United States was postponed.

A. U. ONDERDONK, M D.  
WM. S. WILLIAMSON,  
*Notary Public.*

No. 104.

*Mr. Bayard to Mr. Beach.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 5, 1885.*

We hold Santos's citizenship fully established and not debatable, and expect treatment accordingly.

Wachusett will soon return Guayaquil bearing full instructions.

BAYARD,

No. 105.

*Mr. Reinberg to Mr. Porter.*

No. 121.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, May 6, 1885. (Received May 26.)*

SIR: I have the honor to acknowledge receipt this day of Hon. Secretary Bayard's telegram, addressed to this office, as follows: "We hold Santos's citizenship fully established and not debatable, and expect treatment accordingly. Wachusett will soon return Guayaquil bearing full instructions," and have mailed copy to Hon. Horatio N. Beach, consul-general, now at Quito.

I am, &amp;c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

No. 106.

*Mr. Porter to Mr. Beach.*

No. 34.]

DEPARTMENT OF STATE,  
*Washington, May 8, 1885.*

SIR: Your dispatch No. 34 of the 11th ultimo, relating to the Santos case, is received. It states that "the whole question of Mr. Santos's citizenship has been referred to Washington to be decided between the Department of State and Minister Antonio Flores." Mr. Flores is not in Washington, having left the city in July last, nor has the Department received any intimation of his whereabouts or movements. And you have already been informed by instruction No. 30 of the 1st instant that this Government holds that the question of Mr. Santos's citizenship is not now debatable.

I am, &amp;c.,

JAS. D. PORTER,  
*Assistant Secretary.*

No. 107.

*Mr. Bayard to Mr. Beach.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1885.*

Flores has telegraphed permission for Santos to come to United States. You will assist his departure.

BAYARD,



No. 108.

*Mr. Reinberg to Mr. Porter.*

No. 122.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, May 20, 1885. (Received June 16.)*

SIR: I have the honor to inclose you two copies of affidavits relating to Mr. Santos's case, forwarded to this office by Consular Agent Goddard, of Bahia.

I am, sir, &amp;c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

[Inclosure 1 in No. 122.—Translation.]

At Bahia de Caráñez, the 9th of May, 1885, before Mr. E. T. Goddard, United States consular agent at this port, appeared Mr. Elias Rivera, who, making oath before God our Lord and making the sign of the cross, declared that he would tell the truth concerning all that he knew with respect to the intention of Mr. Julio Romano Santos to return to North America to live. Mr. Elias Rivera said that he knew that during the temporary residence of Mr. Julio R. Santos in this city of Bahia he had refused to accept public offices from Ecuador; and also that he had at all times refused to serve in the national guard, constantly declaring to his friends and the authorities that he was a citizen of the United States of North America, and that it had not been and was not his intention to remain in Ecuador, much less to relinquish his rights as a citizen of the United States of North America.

He declared the foregoing to be the truth, ratifying it and signing it in the presence of the consular agent.

ELIAS RIVERA.

I hereby certify that the foregoing declaration was declared in my presence under oath and that the signature is the true and genuine signature of E. Rivera.

E. T. GODDARD,  
*United States Consular Agent.*

[Inclosure 2 in No. 122.—Translation.]

At Bahia de Caráñez on the 7th day of May, 1885, before Mr. E. T. Goddard, United States consular agent at this port, appeared Mr. Augustin Vera, who, making oath before God our Lord, and making the sign of the cross, declared that he would tell the truth concerning all that he knew in respect to the intention of Mr. Julio Romano Santos to return to North America to live, for which purpose he had been summoned by Mr. E. T. Goddard.

Mr. A. Vera declared that he had lived in Bahia from the year 1865 until the year 1884, and that he knew from the relations which he had sustained with the father of the said Mr. Santos that the latter was sent to North America in the year 1865 in order that he might study to be an engineer. Afterwards, in 1879, he returned to this place, having passed his examination as an engineer, and, although deponent and other friends constantly urged him to accept some public office in this Republic, he always said that as he had become a citizen of the United States of North America he did not wish to lose his rights as such, especially since he intended to return to his adopted country as soon as possible. He told this to deponent several times, adding that it was his intention to take all his family to New York. The foregoing is the truth, and was ratified and signed by deponent in presence of the consular agent.

AUGUSTIN J. VERA.

I hereby certify that the above signature is the true and genuine signature of A. J. Vera, and that the foregoing declaration was declared under oath by him in my presence.

E. T. GODDARD,  
*United States Consular Agent.*

No. 109.

*Mr. Reinberg to Mr. Porter.*

No. 123.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, May 29, 1886. (Received June 16.)*

SIR: Secretary Bayard's telegram of the 21st instant, "Flores has telegraphed permission for Santos to come to United States; you will assist his departure," was delayed at the telegraphic station of Santa Elena for seven days, by reason of the land line uniting the Guayaquil office having broken down. However, on its receipt, I called on the governor of this province, the President having returned to the capital, Quito, and requested him to inform me whether Mr. Santos had been liberated for the purpose of his going to the United States. In reply the governor advised me that he had received a telegram from Minister Flores requesting his liberation and his departure to the United States, and that the same had been sent to Quito to the President for his determination, and that as soon as an answer on the subject was received he would communicate the same to me, although it was his belief that the President would directly communicate to the governor of the province of Manabi, where the prisoner is incarcerated, ordering his liberation and departure.

I am, &amp;c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

No. 110.

*Mr. Reinberg to Mr. Porter.*

No. 125.]

UNITED STATES CONSULATE-GENERAL.  
*Guayaquil, Ecuador, May 29, 1885. (Received June 16.)*

SIR: Since my last dispatch, No. 124, I have again had an interview with the governor of this province relative to the question of having the prisoner Santos liberated and allowing his departure for the United States. This time he replied that in answer to the telegram of the Hon. Antonio Flores, minister of Ecuador at Washington, requesting the release of Mr. Santos and his departure to the United States, the Quito Government had telegraphed him to transmit to Mr. Flores the following:

That before Mr. Santos could be released the guarantee of Mr. Flores for the prisoner's bail must be sent in a proper legal form.

This new action on the part of the Ecuadorian Government demonstrates a new prolongation of Mr. Santos's case and the determination to still keep him prisoner and not to recognize his rights as an American citizen, which is now fully established before the State Department.

I am, &amp;c.,

MARTIN REINBERG,  
*United States Vice-Consul-General.*

## No. 111.

*Mr. Beach to Mr. Porter.*

No. 41.]

UNITED STATES CONSULATE-GENERAL,  
*Guayaquil, Ecuador, June 12, 1885. (Received June 25.)*

SIR: On the 12th ultimo I received at Quito the following cablegram from Secretary Bayard, which was received at Guayaquil on the 6th and from there sent me by mail:

BEACH,

*Consul-General, Guayaquil :*

We hold Santos' citizenship fully established and not debatable and expect treatment accordingly. Wachusett will soon return to Guayaquil bearing full instructions.

BAYARD.

The day following I wrote a note to the minister of foreign relations, that the determination and expectation of our Government concerning Mr. Santos should be known to the Government of Ecuador; and likewise, for the purpose of having the Government of Ecuador assent to an investigation of the charges against Mr. Santos, which I inferred was to be the purpose of the visit of the Wachusett. A copy of my note is given in an inclosure. On the 15th I received a reply. The President came to Quito on the 15th, and on the 19th, at his request, I held an interview with him and the minister of foreign relations at the capital, regarding the Santos matter. The President said that Minister Flores was in Washington and had had one interview with Secretary Bayard, and was soon to have another. He said the Government had evidence (which he offered to loan me) showing that Mr. Santos intended making Ecuador his home. I replied that I had no authority in the matter, and no opinion to give. I made a very earnest appeal for consent that an investigation be made of the charges against Mr. Santos by representatives of the United States; for it appeared to me that it would be exceedingly difficult and disagreeable to undertake an investigation without that consent, as it might even be impossible to have any intercourse with Mr. Santos. The President replied that the question of citizenship must first be determined before the Secretary of State and Minister Flores. If it was found that Mr. Santos was not a citizen of the United States, then the United States had no control over him. If it was determined that he was a citizen of the United States, no obstacle would be interposed to an investigation, though he was being tried according to the laws of the country to which he was amenable. The note of reply mentioned was of the same import.

On returning to Guayaquil I found Department of State dispatch No. 37, dated May 8. In regard to its contents, so far as it relates to the reference of the question of Mr. Santos's citizenship to Washington, until the cablegram was received by me May 12, I supposed from what had preceded, that this was the first question to be determined by the evidence adduced, and I considered Washington the most favorable place for its determination.

The cablegram from Secretary Bayard of May 21 was received by the vice-consul-general before I had arrived at Guayaquil. In his dispatches numbered 123 and 124, dated May 29, to the Department of State, he sets forth all the information that has been received here.

\* \* \* \* \*

I have presented the whole matter within my knowledge as it appears up to this date.

I am, &amp;c.,

HORATIO N. BEACH,  
*Consul-General.*



[Inclosure in No. 41.]

UNITED STATES CONSULATE-GENERAL,  
*Quito, Ecuador, May 13, 1885.*His Excellency the MINISTER OF FOREIGN RELATIONS,  
*Quito, Ecuador :*

SIR: On the 11th ultimo I transmitted to the Department of State at Washington a translated copy of your note to me, dated the 8th of the same month. In reply to my note and the accompanying copy of your note, the following cablegram was received from Secretary of State Bayard at Guayaquil on the 6th instant, and from there forwarded to me by mail:

BEACH,  
*Consulate-General, Guayaquil :*

We hold Santos' citizenship fully established and not debatable, and expect treatment accordingly.

\* \* \* \* \*  
BAYARD.

I presume that an investigation of the charges made by the Ecuadorian authorities against Mr. Santos will follow, and trust that there will be no objection on the part of the Ecuadorian Government.

I am, &c.,

HORATIO N. BEACH.

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No. 112.

*Mr. Bayard to Mr. Beach.*

No. 42.]

DEPARTMENT OF STATE,  
*Washington, June 17, 1885.*

SIR: The commander of the Wachusett, which, under orders from the Navy Department, revisits Guayaquil in connection with the Santos case, will have delivered to you my instruction No. 30, of May 1, 1885, prescribing your action thereon. It seems proper that I should acquaint you with the cause of the delay, now of more than a month's duration, in the transmission of that instruction to you.

On the 14th of May last, the Wachusett being then at Panama and about to sail for Guayaquil, I was revisited by Señor Antonio Flores, minister of Ecuador, who had been summoned from Spain, as he informed me, for the purpose of adjusting the Santos case on an honorable and mutually satisfactory basis. Mr. Flores professed to be in ignorance of the merits of the case, the instructions which his Government had announced by cable as on the way hither not having reached him; but he raised the point that Mr. Santos, by a residence of more than two years in Ecuador after the date of his acquisition of United States citizenship, had completely annulled his acquired status and reverted to his original allegiance under the existing treaty. I told Mr. Flores that the presumption created by such two years' residence had been most amply and conclusively rebutted, and that the evidence in rebuttal before the Department left no doubt as to the full obligation resting upon this Government to regard Mr. Santos's citizenship as established, and to assert his rights, and accord him protection as a citizen.

As the result of my conference with Señor Flores, I addressed to him on the same day, May 14, a note, in which I invited him to visit the Department on the following day, May 15, there to inspect the instruc-

tion and accompanying documents then on their way to you, and I added:

Your perusal of these papers will give you the opportunity to telegraph your Government of your concurrence in the decision of this Department, and to request the trial or release of Mr. Santos. This being done may avoid the presence of a man-of-war of the United States at Guayaquil, and so enable the prompt disposition of the matter as benefits the good relationship of the two countries.

On the morning of May 15, Mr. Flores sought a second conference with me. He professed his earnest desire to avoid the presence of the Wachusett in Ecuadorian waters, and stated that his powers were, he believed, sufficient to enable him to propose an arrangement by which Santos should be forthwith released, reserving the question of citizenship. He prepared a telegram in that sense to President Caamaño, and asked that it should be sent through the Department immediately, *before* he should have examined the papers and proofs which I had offered to submit to him. To this I assented, and the following telegram was accordingly dispatched:

President CAAMAÑO, *Guayaquil*:

Dé usted permiso á Santos, por solicitud mia, para venir Estados Unidos per próximo vapor, comprometiéndose él á no conspirar y dando él certificado escrito de que nunca ha conspirado, sin tocar cuestion nacionalidad. Conteste "Convenido"—y cuestion arreglada.

FLORES.

This telegram, as translated by Señor Flores, reads in English as follows:

Give permission, at my request, to Santos for leaving to United States next steamer, he binding himself not to conspire, and giving written statement he has never conspired, reserving all question of citizenship. Answer "Agreed"—question settled.

I then informed Señor Flores that the departure of the Wachusett and the conveyance to you of my instruction of May 1 would be suspended for a reasonable time to permit of the acceptance and execution of this agreement by the President of Ecuador.

This agreement having been thus concluded, I placed at Señor Flores's disposal the proofs submitted in rebuttal on Mr. Santos's behalf, and permitted him to peruse at the same time the instruction to you dated May 1, and the report of the law officer of the Department. Señor Flores's attention was drawn to the fact that the demand of this Government was simply for the immediate open and impartial trial of Mr. Santos on distinctly formulated charges, with all the guarantees of procedure and defense accorded by the treaty to United States citizens accused of crime in Ecuador; or, in default of such trial, his release from custody. Señor Flores was pleased to express his appreciation of the temperateness with which this Government had proceeded in the matter.

I learned, through the courtesy of the president of the Central and South American Telegraph Company, that Señor Flores's message of May 15 was delivered to President Caamaño, at Quito, on the 21st of May. Since then I have not been informed by Señor Flores of the acceptance of the amicable mode of settlement which he and I had agreed upon.

Quite a voluminous correspondence has, however, been exchanged during the past month between Señor Flores and this Department. Much of it relates to the apparent delay which has occurred in acting upon the agreement here reached, but as this has been for the most part conjectural, and, in the absence of positive information, it seems un-

necessary to do more than refer to it here; other points of this later correspondence, less conjectural in tone, may be more specifically mentioned.

(1) Señor Flores has laid considerable stress on the circumstances that he is advised by his Government that proofs have been forwarded to him controverting the evidence presented in rebuttal by and on behalf of Mr. Santos. He had asked whether I would consider such proofs, when received, with a view to changing the decision reached by us in respect of Mr. Santos's status as a citizen. I have not felt called upon to admit the suggested injection of such "proofs" at the present stage of the matter; for the agreement of May 15 was reached by common consent, without presentation of any proof whatever on either side, and the reservation of the citizenship question is complete and equally binding upon both parties; hence I see no more reason why this Government should prejudge the reserved question by taking cognizance of "proof" to be offered by Ecuador than it should insist on Ecuador's prejudging it on "proofs" submitted by us.

(2) Señor Flores has made several overtures to me looking to an engagement in advance to submit to friendly arbitration any claim which may be presented on Mr. Santos's part for reparation or damages. I have informed Señor Flores that I regard any such engagement as entirely premature; that no intimation or suggestion of ulterior claim for damages has been made to this Department except by Señor Flores himself; that the reservation of the question of Mr. Santos's citizenship will naturally extend to and include any personal rights dependent upon his citizenship, and that, should ulterior questions of this character arise, I cannot conceive that they would not yield to the amicable and mutually honorable treatment which two nations must ever give to questions arising between them.

(3) On the 30th of May Señor Flores addressed me a note to the effect that he had received a delayed instruction from his Government, by mail, whereby he was empowered to adjust the Santos question, but that before doing so he desired to await the arrival of the documentary "proofs" above referred to; and to this end he asked a further delay.

I pointed out to Señor Flores, in reply, that he had already proposed the settlement of the matter by the release of Mr. Santos without prejudice to the reserved question of citizenship; that I had assented to this settlement, without, however, thereby waiving or annulling the ground on which our right to intervene to secure Mr. Santos's trial, or release in default of trial, rests; that I had already, after the agreement of May 15 was reached, afforded Señor Flores the opportunity to inspect the evidence on our part, so that he might have the option of signifying his concurrence in the conclusions reached by this Government; that I now understood him to ask a reasonable delay in the execution of that agreement, so that, in the light of the expected documents, he might feel assured that he was discharging his duty toward his own Government, under his full powers, in carrying that settlement into effect; that I had no objection to according such a reasonable delay, in the conviction that it could merely postpone for a few days, and not overturn the good understanding arrived at; that my consent to the delay asked could not imply that the decision of this Government as to its duty in the premises would be changed or opened for discussion; and I reminded Señor Flores, in all frankness, of the grave responsibility he assumed should the result of the requested delay be (as I trusted it would not be) to lead him to annul the agreement of May 15, and so remit this Government to the assertion of its rights.



Señor Flores replied June 2, reaffirming, so far as in him lay, the agreement of May 15, and disclaiming any purpose of assuming the responsibility of withdrawing from it in view of any proofs he might thereafter receive. He affirmed that he had repeatedly telegraphed to his Government arguing the acceptance and execution of the agreement of May 15, and he concluded by withdrawing his request for delay in order to examine the documents expected by him. I understood this withdrawal and the explanations by which it was accompanied as merely a personal declension of whatever responsibility might be imputed to him if the agreement of May 15 should fail, and that the whole matter reverted to where it was before he asked this special postponement.

(4) Several later notes from Señor Flores are devoted to argument to show that it may perhaps not be in the power of President Caamaño, any more than it is in his own power by virtue of the authority which President Caamaño has delegated to him, to effect the release of Mr. Santos except in conformity with the constitution and laws of Ecuador.

Señor Flores would seem to endeavor to create the impression that Mr. Santos has actually been convicted by due process of law, and can only be released by the exercise of the executive clemency in the manner prescribed by law. I have not felt called upon to discuss this point with Señor Flores. For your information, I may observe that the theory of actual conviction does not comport with the latest advices received from Guayaquil, which point to a dilatory and unsatisfactory preliminary examination before a committing magistrate (*ensumario*) without accordance of the treaty-rights to which an American citizen under such process would be entitled.

It will thus be seen that this Government has not only approached the question of Mr. Santos's rights as a citizen with every desire to reach an impartial judgment thereon after a most searching investigation, but that in the endeavor to reach a satisfactory adjustment in accord with the empowered representative of Ecuador, no effort has been spared to testify our wish that the perhaps just sensibilities of a friendly sister republic should be spared and every deference shown to it in attaining the desired result.

I am hardly called upon to conjecture, and still less to excuse, the causes of the delay in acceding to the mutually honorable agreement reached by Señor Flores and myself on the 15th of May and since repeatedly reaffirmed by him. I have no grounds at hand from which to infer that the object in view may have been to gain time for the completion of the judicial proceedings said to have been instituted against Mr. Santos, so that, being convicted without regarding his claim to treatment as an American citizen on trial, he might be the better pardoned with reservation of the question of citizenship; but the conjecture is at least within the bounds of plausibility. On the other hand, I do not see the necessity of pressing the proceedings to a point where executive pardon might be the only means of relief. In the preliminary and summary proceedings against Mr. Santos, which are the only ones of which I have any information, the abandonment of the process by the public prosecutor would seem to have been at any time available to enable the agreement of May 15 to be carried out with the reserve thereby conditioned.

The material fact before me, on which I can alone act, is that after a month's delay the arrangement voluntarily offered by the plenipotentiary of Ecuador has not been accepted or executed by the Government which empowered him to offer it.

The President has therefore come to the conclusion that a reasonable period of delay has been granted without avail; and he has directed that the instruction of May 1 be conveyed to you in the manner originally intended, and that you act in accordance therewith by demanding, either that Mr. Santos have prompt trial, with all the guarantees of procedure to which a citizen of the United States is entitled under existing treaty stipulation, or that, in default of such trial, he be set at liberty.

As you have already seen, from the summary herein given of my correspondence with Señor Flores, this Government has abstained from any intimation of purpose to uphold any claim for restitution of property or damages which Mr. Santos may hereafter present. Indeed, no such ulterior claim is before us. Were Mr. Santos set at liberty under the agreement of May 15, I should, of course, assume that the reservation of the question of citizenship carried with it reservations of all matters dependent upon such citizenship. But if the agreement falls through, and if it be found that Mr. Santos has been treated in disregard of his claimed rights as a citizen of the United States, it would be entirely in order and consonant with international usage and precedent in such matters to regard continued delay in recognizing Mr. Santos's just rights as increasing the responsibility which this Government might ultimately be constrained to attach to that of Ecuador. If, therefore, the execution of the agreement of May 15 should be refused, or if the proceedings against Mr. Santos should be pushed to judgment in denial of the rights we competently claim for him as an American citizen, you should very distinctly intimate that subsequent claims on his behalf cannot but be aggravated thereby, should any such come up for consideration.

Finally, you will understand that the mission of the Wachusett is one of peace and good will, to the end of exerting the moral influence of our flag toward a discreet and mutually honorable solution, and in the event of Mr. Santos being released, to afford him the means of returning to the country of his allegiance and domicile. The purpose of her presence is not to be deemed minatory; and resort to force is not competently within the scope of her commander's agency. If all form of redress, thus temperately but earnestly solicited, be unhappily denied, it is the constitutional prerogative of Congress to decide and declare what further action shall be taken.

You will show this instruction to Commander Mahau.

I am, &c.,

T. F. BAYARD.

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[Inclosure in No. 42.]

*Mr. Bayard to Mr. Whitney.*

DEPARTMENT OF STATE,  
Washington, June 17, 1885.

SIR: Referring to my letter of the 1st of May last, requesting that the Wachusett might be directed to proceed to Guayaquil, Ecuador, conveying instructions to Consul-General Beach in relation to the case of Julio R. Santos, and referring also to the subsequent verbal understandings whereby the departure of the Wachusett from Panama has been temporarily delayed, pending certain correspondence here, carried on between the minister of Ecuador and this Department, looking to the release of Mr. Santos, I have now the honor to request that telegraphic orders be sent to the

commander of the Wachusett, directing him to proceed forthwith with his vessel to Guayaquil, in accordance with his instructions.

He will, of course, understand that his mission is entirely friendly, and that if the situation or treatment of Mr. Santos should seem to require it, he will ask the instructions of the Department.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

No. 113.

*Mr. Bayard to Mr. Beach.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 25, 1885.

If Santos is released let him return in Iroquois. Pending the action of Ecuadorian Congress do not deliver letter.

BAYARD.

No. 114.

*Mr. Hunter to Mr. Beach.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 6, 1885.

Flores shows telegram from President announcing Ecuadorian Congress passed pardon, comprising Santos.

Telegraph if liberated.

HUNTER.

No. 115.

*Mr. Beach to Mr. Porter.*

No. 52.]

UNITED STATES CONSULATE-GENERAL,  
Guayaquil, Ecuador, July 10, 1885. (Received July 27.)

SIR: I herewith continue my report of action relating to the Santos case. On the 27th ultimo I received the following cablegram from Washington:

BEACH,  
Consul-General, Guayaquil:

Pending deliberation of Santos case let Iroquois withdraw from Guayaquil to Payta.

BAYARD.

On June 29 the Iroquois arrived at 7 o'clock in the morning, and sailed for Payta at 6 p. m. the same day. Commander Yates Sterling visited me, and delivered dispatch No. 30 of the date of May 1, accompanying declarations and opinions of law officer. Though there were no letters



for delivery, I supposed that the "not deliver letters" in dispatch of June 25 meant these documents; but to be entirely right I sent the following cablegram:

GUAYAQUIL, *June 29.*

Secretary BAYARD,  
*Washington:*

What letters referred to in dispatch 25th, saying not to deliver letters?

BEACH.

The next day the following reply was received:

BEACH,  
*Consul-General, Guayaquil:*

Instructions May 1, which Iroquois carried, not to be communicated pending action Ecuadorian Congress.

BAYARD.

On the 6th instant the following cablegram was received from Washington:

BEACH,  
*Consul-General, Guayaquil:*

Flores shows telegram from President announcing Ecuadorian Congress passed pardon, comprising Santos. Telegraph if liberated.

HUNTER.

On the receipt of the foregoing I immediately sent the following telegram to Quito, translated into Spanish:

GUAYAQUIL, *June 6.*

PRESIDENT, *Quito:*

Cablegram from Bayard states that Flores shows telegram from you saying that Congress has passed pardon, including Santos. Has he been ordered liberated?

HORATIO N. BEACH.

I substituted the name "Bayard" for "Hunter," as the official character of Mr. Bayard was known at the national palace, and that of Mr. Hunter not.

I have read attentively and with great interest dispatch No. 42, from Secretary Bayard, received day before yesterday, explanatory of the action taken at Washington in the Santos matter. As this arrived nine days after the departure of the Iroquois, I could not show it to Commander Stirling, who was substituted for Commander Mahan.

The cablegram of Secretary Bayard dated June 25 suspended instructions given in dispatches dated May 1 and June 17. I understood from this and subsequent cablegrams that the Department of State had assurances that Mr. Santos would be released by a bill of general amnesty.

I have no positive knowledge as to the matter of trial treated in (4) dispatch No. 42. In my interview with the President and minister of foreign relations at Quito, June 19, especially mentioned in my dispatch No. 41, I remarked that Mr. Santos claimed that he had been tried once, the trial annulled, and a second trial had been commenced.

The President replied that several prisoners were being tried in conjunction—general evidence being taken that applied to one or more of the accused—that each would be adjudged by the evidence produced against him, and that the trial as first instituted was in progress. I do not believe it has been ended. Relative to obtaining information, the fact must be considered that M. Santos is imprisoned at Portoviejo in

the province of Manabi, with which there is no telegraph connection, and between which and Guayaquil it is four days' journey by horse or mule or eight days for a round trip.

The bill previously referred to passed Congress last week, giving pardon to a named class of prisoners, and giving the President discretionary authority in regard to another class, which includes Santos. I have no doubt that much of Santos's property has been confiscated, and that his trial has been irregular under Ecuadorian laws. My theory is that the Ecuadorian Government desires to free Mr. Santos and extinguish his claim for indemnity by one act.

After waiting four days for a reply to my telegram of the 6th to Quito, and not receiving any, this forenoon I sent the following cablegram to Secretary Bayard:

GUAYAQUIL, July 10.

Secretary BAYARD, *Washington*:

Telegraphed President 6th substance Hunter cablegram, and asked if Santos been ordered liberated. No reply; no information; no liberations here. Congress passed pardon bill giving President discretion some cases.

BEACH.

This gives all the information that I have regarding the Santos matter up to the closing of the mails to-day for the United States.

I am, &c.,

HORATIO N. BEACH.

Just as I had completed the foregoing I received the following telegram from the President:

[Translation.]

QUITO, July 10.

Consul-General BEACH:

The pardon asked by me is given by Congress, and in that pardon Santos is included. But the indispensable formality to give the decree is the cause that the decree is delayed for a few days. In any case the order of liberty will not be long delayed.

PRESIDENT.

I stopped my previously mentioned cablegram at St. Elena, and will send another immediately, that I have not had time to write.

H. N. B.

No. 116.

*Mr. Beach to Mr. Bayard.*

[Telegram.]

GUAYAQUIL, July 13, 1885. (Received July 13.)

Secretary BAYARD, *Washington*:

President telegraphed yesterday, saying order by mail to governor Manibi for Santos's release.

BEACH.

## No. 117.

*Mr. Beach to Mr. Porter.*

No. 57.]

UNITED STATES CONSULATE-GENERAL.

*Guayaquil, Ecuador, July 17, 1885. (Received August 3.)*

SIR: I again continue the story of Santos from the point of concluding my previous dispatch on the same subject, dated July 10. Immediately after closing that dispatch I sent the following cablegram to Washington:

GUAYAQUIL, *July 10.*Secretary BAYARD, *Washington:*

Responding to my telegram 6th President says Santos included in pardon, and will be liberated after short delay to make necessary decree.

BEACH.

On the 12th I received the following telegram from the President:

[Translation.]

QUITO, *July 12.*

Consul-General BEACH:

This day by mail order sent to governor of Manibi for the liberation of Julio Santos.  
PRESIDENT.

On the 13th I sent the following cablegram to Washington:

GUAYAQUIL, *July 13, 1885.*Secretary BAYARD, *Washington:*

President telegraphed yesterday saying ordered by mail to governor Manibi for Santos's release.

BEACH.

The same day I sent a translation of the following to the President:

GUAYAQUIL, *July 13.*Mr. PRESIDENT, *Quito:*

Have cabled to Washington the purport of your two telegrams.

CONSUL-GENERAL BEACH.

On the 11th I wrote to Mr Santos the import of the President's telegram to me of the 10th, and expressed it as my belief that he would soon be freed. By due course of mail he should have received this on the 15th.

The order which the President telegraphed left Quito the 12th. Should by due course of mail reach Mr. Santos to-day or to-morrow.

I am, &amp;c.,

HORATIO N. BEACH,  
*Consul-General.*

## No. 118.

*Mr. Bayard to Mr. Beach.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, July 29, 1885.*

Has Santos been released? Delay inexplicable.

BAYARD.



No. 119.

*Mr. Beach to Mr. Bayard.*

[Telegram.]

GUAYAQUIL, July 30, 1885. (Received July 30.)

Santos's cousin here. Received letter yesterday from relative saying Santos released twenty-second (22d). Think statement reliable.

BEACH.

No. 120.

*Mr. Beach to Mr. Porter.*

No. 62.]

UNITED STATES CONSULATE-GENERAL,  
Guayaquil, Ecuador, July 31, 1885. (Received August 15.)

SIR: I had nothing new from any source in regard to the Santos matter until the 29th instant, when the following was received:

BEACH, Consul-General, Guayaquil:

Has Santos been released? Delay inexplicable.

BAYARD.

I immediately went in search of information. I had no doubt that the President would keep his promise to release Mr. Santos, especially as several persons who had been prisoners at Guayaquil were released on the 22d under the terms of the amnesty bill. I supposed that Mr. Santos would arrive here on the 26th, and, if not, that I would hear from him by the weekly mail coming later. I was disappointed in both respects. In searching for information I found a relative of Mr. Santos, who had received a letter from a relative at Portoviejo (where Mr. Santos was imprisoned), in which it was stated that Mr. Santos was released on the 22d, arrived at the coast on the 24th, and proceeded at once toward Bahia, the place where he had been engaged in business. While I deemed it exceedingly surprising that Mr. Santos had not informed me of his liberation, I believed the statement to be true, and replied to Secretary Bayard by cable as follows:

GUAYAQUIL, July 30.

Secretary BAYARD, Washington:

Santos's cousin here received letter yesterday from relative saying Santos released 22d. Think statement reliable.

BEACH.

I am, &c.,

HORATIO N. BEACH,  
Consul-General.

No. 121.

*Mr. Beach to Mr. Bayard.*

[Telegram.]

GUAYAQUIL, August 11, 1885. (Received August 11.)

Secretary BAYARD, Washington:

Information positive that Santos liberated.

BEACH.

## CORRESPONDENCE WITH THE LEGATION OF ECUADOR.

No. 122.

*Señor Flores to Mr. Bayard*

[Telegram.]

NEW YORK, May 13, 1885.

I arrived to-day and will call upon you to-morrow. I respectfully request that you should telegraph to American agents in Ecuador to stop any proceedings in the Santos affair till you have heard me.

ANTONIO FLORES,  
*Ecuador Minister.*

No. 123.

*Mr. Bayard to Señor Flores.*

DEPARTMENT OF STATE,  
*Washington, May 14, 1885.*

SIR: Referring to the interview sought by you to-day with respect to the case of the United States citizen Julio Romano Santos, now imprisoned in Ecuador, I have the honor to invite you to visit the Department to-morrow morning at whatever early hour may suit your convenience after ten o'clock, here to inspect the instruction and accompanying documents which have been sent to the United States consul-general at Guayaquil.

Your perusal of these papers will give you the opportunity to telegraph your Government of your concurrence in the decision of this Department and to request the trial or release of Mr. Santos. This being done may avoid the presence of a man-of-war of the United States at Guayaquil, and so enable the prompt disposition of the matter, as befits the good relationship of the two countries.

I write this note in accordance with your wishes as expressed verbally to me to-day.

Accept, sir, the assurance of my highest consideration.

T. F. BAYARD.

No. 124.

[Telegram handed to Mr. Bayard by Señor Flores, May 15, 1885, and sent on the same day, by agreement between them, to President Caamaño; delivered May 21.]

Presidente CAAMAÑO, *Guayaquil*:

Dé usted permiso á Santos por solicitud mia para venir Estados Unidos por próximo vapor comprometiéndose él á no conspirar y dando él certificado escrito de que nunca ha conspirado sin tocar cuestion nacionalidad. Contesté "Convenido," y cuestion arreglada.

FLORES.

[Original text of telegram.]

Give permission, at my request, to Santos for leaving to United States next steamer, he binding himself not to conspire and giving written statement he has never conspired, reserving all question of citizenship. Answer "Agreed"—question settled.

No. 125.

*Señor Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,  
Washington, May 23, 1885. (Received May 23.)

MR. SECRETARY OF STATE: In the communications which I sent to my Government by the steamer which sailed day before yesterday from New York for Colombia, I took care to report, exactly and minutely, all that had occurred between the Department of State and this legation by reason of the Santos affair.

I deemed it of much importance toward the settlement of this difficulty, in the manner proposed by my telegram of the 15th instant, to set forth especially that I had written that telegram in the Department before seeing the proofs in behalf of Señor Santos, and that I had handed it to you at your request, being for my part happy to thus give a proof of confidence, and being persuaded, I should add, that the contents thereof should not be published by the press before it reached the knowledge of my Government.

I added that I had taken care to call your excellency's attention to the above-stated fact that the telegram was prior to the examination of the proofs on behalf of Señor Santos, so that it might at no time be supposed that that telegram was a consequence of those proofs or reflected the impression their perusal might have produced in my mind, since any report of such a character spread in Ecuador by means of telegraphic dispatches before the arrival of my communication might have the serious result of misleading public opinion and frustrating the conciliatory measure suggested in my telegram of the 15th.

To the end of avoiding this danger, of putting the truth in its right light, and of aiding the speedy and satisfactory solution which we both seek, I beg your excellency to be pleased to state to me—

(1) Whether your excellency confirm the foregoing statement which I have made to my Government, or if there be therein any point in which my memory may have been treacherous.

(2) Whether your excellency confirms the statement which I likewise made to my Government that there had occurred no disagreeable incident whatever between the Department and the legation; since, for my part, I have received from your excellency nothing but attentions, doubtless undeserved by me, and which therefore the more constrain my gratitude.

It is quite true, Mr. Secretary of State, that the word of its own representative is sufficient for my Government to induce belief in that which he communicates to it; but it is not always sufficient to convince the enemies of the Government; neither is it on all occasions sufficient for the purposes of diplomacy, as is shown by the fact of verbal notes and protocols of conferences.

Moreover, in cases like the present, it is not unnecessary, at times, that the truth should be confirmed by both parties. This must have been the belief of the legation of Chili and the Hon. Hamilton Fish, in 1872, when, under analogous circumstances, the minister of Chili applied to the honorable Secretary and obtained from him the satisfactory answer which was to be expected. Authorized, therefore, by this precedent, and by others, and in the name of the good relations existing



between our Governments, relations which I have come from afar off to strengthen, I respectfully beg of your excellency a like favor.

May your excellency be pleased to accept the assurance of the very high consideration with which I have the honor to subscribe myself,

Your very obedient and humble servant,

A. FLORES.

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No. 126.

*Mr. Bayard to Señor Flores.*

DEPARTMENT OF STATE,  
Washington, May 25, 1885.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, which was delivered at the Department of State on that day, when the offices were closed by reason of the funeral of my predecessor in office.

You therein summarize the report which you have made to your Government of our conference of the 15th instant, in relation to the case of Mr. Julio R. Santos, and solicit my confirmation thereof.

I have no hesitancy in confirming, at your request, your statement of the fact that you were careful to send the telegram to your Government requesting the release of Mr. Santos before you had inspected the correspondence of this Department with the United States consulate-general at Guayaquil, and before you had made yourself acquainted with the position of this Government and the proofs of the case, although I did not inquire into your reason for so doing.

After you had fully inspected the correspondence and proofs in the case, I was informed by Mr. Adee, the Third Assistant Secretary of State, that you expressed yourself as being well satisfied with the moderation and good feeling which marked the attitude taken by this Government in its correspondence on the subject.

I know of no unpleasant incident whatever tending to interrupt the mutually friendly conversations that have taken place since your arrival, although I recall having stated to you my strong disapproval of resort to the newspapers as a channel for conveying diplomatic information; and when you exhibited to me a printed slip from a New York paper, I told you that I had observed upon the very day after your arrival an editorial in that journal upon the case of Santos, and deprecated such "trial by newspapers." I did not at the time, nor can I now, regard this incident as in any sense disagreeable, or as other than the courteous frankness due, in personal friendly conversation like ours, to the end of setting the matter on a clear and mutually agreeable basis. I would not have adverted to the incident but for your inquiry in this regard, neither do I desire now to make any reference to newspaper publications.

The more simple and direct our intercourse in the important matters relating to the interest and duties of our respective Governments, the more evidently advantageous and desirable it is. In this way all misunderstanding can be avoided and the great objects of justice arrived at in amity, a result which the treaties are designed to secure, and which it is the best aim and end of diplomatic intercourse to effect.

For yourself, personally, Mr. Minister, I have only the kindest feelings, and I am glad of any opportunity which permits me to express them.

Be pleased to accept, sir, &c.,

T. F. BAYARD

No. 127.

*Mr. Bayard to Señor Flores.*DEPARTMENT OF STATE,  
Washington, May 27, 1885.

SIR: With reference to our conference of the 15th instant, in relation to the case of Mr. Julio R. Santos, and especially to your telegram of that date to the President of Ecuador, I deem it not improper to remind you that telegraphic communication with Guayaquil and Quito has been restored, and that several days have elapsed since I was advised of the delivery of that telegram to His Excellency without my receiving from you or from consul-general at Guayaquil information that the incident has been terminated in the manner agreed upon.

Accept, sir, &amp;c.,

T. F. BAYARD.

No. 128.

*Señor Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,  
Washington, May 30, 1885. (Received June 1.)

MR. SECRETARY OF STATE: I hasten to inform your excellency that I have this morning received a note from my Government, dated at Quito on the 11th of April, and sent to Paris, whence it has been forwarded to me. In that note I am informed that Mr. Julio R. Santos had accepted a public office in Ecuador, and this was one of the many reasons which existed leading to the belief that he had resumed Ecuadorian citizenship. In consequence, I beg your excellency to be pleased to state to me whether, upon the presentation of the proof of this fact, of which the Government of the United States was ignorant, it would be competent to change "the decision" of the Department of State to which your excellency's note of the 14th ultimo refers. I likewise beg you to inform me if, with this object, there will be taken into consideration the further proofs which my Government may send me, as well as evidence impugning the proofs presented by Mr. Santos. I think that the favorable reply of your excellency would aid efficiently toward the speedy settlement of the matter. It would also be of great importance to add, to the end of avoiding any misunderstanding, that your excellency is in agreement with me upon the two following points: 1st, that the release of Mr. Santos will not prejudice the "citizenship" question, which is reserved for afterwards; and, 2d, that this point being decided, any claim related therewith shall be the subject of arbitration. If I receive from your excellency, as I hope, such a favorable reply, I will at once telegraph to my Government, and I trust that the consequence will be the release of Mr. Santos as soon as possible; for I have already had occasion to state to your excellency the conditions exacted by our constitution for amnesty and pardon in the event of Mr. Santos having been tried and condemned.

It is gratifying to me to add that in the above-mentioned note of the 11th of April, my Government authorized to the end that, having cogni-

zance of the proofs which may have been presented to your excellency's Government, I may definitely settle the point in dispute, after the reception, as is natural to suppose, of all the evidence which three consecutive telegrams from Ecuador have announced to me.

No one desires the aforesaid settlement more than I, Mr. Secretary of State; but this same proof of confidence wherewith my Government honors me imposes upon me the duty of not abusing it by proceeding to decide so grave an affair upon *ex parte* testimony and without even awaiting all the documents from Ecuador, which, as your excellency knows, I have always asked should be awaited before going any further.

In conclusion, your excellency will permit me to observe that, although such authorization effectively exhibits the deference of my Government toward that of your excellency, and its sincere desire to hasten the satisfactory termination of this incident, all that had before taken place demonstrates likewise that it has not been its intention to evade a settlement, and that it had acted with justice.

In effect, Mr. Santos having been seized on the "Boca de Chone" in company with armed men, and, moreover, with munitions of war, and the like supplies having been also found in his house, he was subjected to the corresponding proceedings, in the course of which many witnesses appeared against him.

My Government, in evidence of its good-will, has caused me to forsake important negotiations set on foot in Europe, and ordered me to come hither to come to an understanding with your excellency in settlement of this matter.

I have, &c.,

A. FLORES.

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No. 129.

*Mr. Bayard to Señor Flores.*

DEPARTMENT OF STATE,  
Washington, June 1, 1885.

SIR: I have had the honor to receive to-day your note of the 30th ultimo in relation to the case of Mr. Julio R. Santos.

The position of this Government in the matter is clear and simple. Mr. Santos having established to the full satisfaction of the Government of the United States his right to claim its protection as a citizen of the United States, we are bound to ask that he be so treated by the Government of Ecuador, and that he be either tried on duly formulated charges with every opportunity of defense, or, in the absence of such proceedings being promptly instituted, that he be released.

This being made clear to you, you have proposed as a settlement of the matter that Mr. Santos be forthwith released, without prejudice to the question of citizenship, which you desire to reserve on behalf of your Government. To this I have assented, without, however, thereby waiving or annulling the ground on which our right to intervene to secure Mr. Santos's trial, or release in default of trial, rests.

I understand from your note of to-day that you are fully empowered by your Government to adjust this question, but that before doing so you desire to await the arrival of certain documentary proofs, which you have been informed have been sent you.



As I said in my note to you of the 14th ultimo, and in our conference of the 15th, I was pleased to offer you the opportunity of inspecting the proofs of Mr. Santos's citizenship in the possession of this Department, in order that you might have the option of signifying your concurrence in the conclusion reached, and so aid in securing Mr. Santos's trial or release without the need of other and more direct appeal by this Government to secure those ends. You did, in fact, so inspect those proofs, after sending to the President of Ecuador the telegram in which you asked the release of Mr. Santos on the conditions agreed upon between us.

I now understand you to ask a reasonable delay in the execution of that agreement, to enable you to possess expected documents before confirming the settlement we reached. I understand you to ask this that you may feel assured that you discharge your duty toward your own Government, under your full powers, in carrying that settlement into effect.

To such a reasonable delay I have no desire to interpose objection, and the less so as I am convinced that it can merely postpone for a few days, and not overturn the good understanding at which we have arrived.

Permit me, however, to say that it must be expressly understood that there is no implication, from my consent to this delay, that the decision of this Government as to its duty in the premises will be changed or opened for discussion. And permit me, also, to remind you, in all frankness, of the grave responsibility you assume should the result of this delay be, as I trust it will not be, to lead you to annul the agreement we have reached and so remit this Government to the assertion of its rights.

But one object inspires us both, that this incident may be disposed of in the manner best befitting the dignity and the mutual friendship of the two Governments.

Your Government releasing Mr. Santos and, for its part, reserving the question of his citizenship, such reservation will naturally extend to and include any personal rights dependent on his citizenship. As I have already told you, no ulterior questions of this nature have been suggested except by yourself, and were they to arise, I cannot conceive that they would not yield to the amicable and mutually honorable treatment which two friendly nations must give to questions arising between them.

Accept, sir, &c.,

T. F. BAYARD.

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No. 130.

*Señor Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,  
Washington, June 2, 1885. (Received June 2.)

MR. SECRETARY OF STATE: I hasten to acknowledge the response with which your excellency has honored me, and which was delivered last night at this legation.

In view of the contents thereof, I begin by communicating to your excellency the circumstance that, since our interview of the 29th ultimo,

I have sent to my Government two telegrams, one on that same day, and the other on the following, both tending to the speedy settlement of the Santos matter according to the terms of my telegram of the 15th of May, which, as I had the honor to remind you in the said interview of the 29th, was nothing more than its literal tenor makes it out to be, that is, a "request of mine," and at the same time a proposal for a settlement which I sent to my Government in order that, if it accepted it, it might answer "agreed to," and so the matter might be settled.

It pertained, therefore, to my aforesaid Government to accept or not that project of settlement, the acceptance of which I had requested of it. Moreover, I did not bind myself, neither could I bind myself, seeing that the result, unfortunately, did not depend upon my own wishes. Thus I fulfilled what I had offered, and to the end that your excellency might have proof thereof, I confided to you the telegram in question in order that it might be ascertained that it had been transmitted to its destination. I carried into execution, consequently, all that part of the projected settlement which pertained to me. Since then I have done more, as I now say, and have urged its acceptance.

As for the hope which your excellency expresses that the delay may not result in inducing me to annul my proposed settlement, I assume that your excellency does me the justice to believe me incapable of such a proceeding. In effect, Mr. Secretary of State, whatever may be the proofs which my Government may show to offset those of Señor Santos, I adhere, in so as depends upon me, to the projected settlement of my telegram of the 15th, and confirm all the contents thereof, which, as your excellency well knows, was the spontaneous birth of my own will, independent of all evidence, and without any discussion whatever, since I desired to give to the Government of the United States this testimony of high deference. To-day, as then, I cherish the same desire, as well as the expectancy that the wished-for response of my Government may put a speedy and satisfactory end to this incident.

I think that the delay in receiving that response may arise from several causes, as I observed to your excellency in our interview of the 29th.

One of them is that the chief of the State may be in the mountains or on the road thence, to be present at the opening of the congress at Quito on the 10th of this month, since his excellency's telegram which I received the night before, and which I showed to your excellency, is dated at Quito and was transmitted by the governor of Guayaquil.

This circumstance induces also the belief that perhaps telegraphic communication between Quito and Guayaquil may not be open, by reason of frequent interruptions in the long stretch of more than eighty leagues, through forests, deserts, and the mountain chain of the Andes, whose violent southern gales, especially in the neighborhood of Chimborazo, are sufficient alone to destroy or disorder that imperfect telegraph.

The President could not, in Guayaquil, where he was at least until the evening of the 21st, when he received my telegram of the 15th, neither could he in the course of the journey thence, decide this matter, since the constitution prohibits him from exercising the executive power at a distance of more than five kilometers from the capital. He had, therefore, necessarily to refer it to the Government at Quito, which in its turn lacks the authority to grant amnesty or pardon—in which case I understand Señor Santos to be—without the co-operation of the council of state, a majority of which is composed of eight members elected by the assembly, and consequently independent of the executive power.

In order to grant a pardon, our constitution moreover exacts the two following conditions precedent.

(1) A judgment which shall have been duly pronounced; and

(2) A report of the judge or court pronouncing it.

This court being at Manabi, and the report having to be sent to Quito, if the case be one of pardon, it is easy to explain the delay of the few days which have elapsed since the 21st, on the afternoon of which my telegram reached Guayaquil, from which point it must have had to be transmitted to Quito.

I state what in my opinion may be the cause of the delay, for your excellency's satisfaction, but now without any desire to ask an extension of time. On the contrary, since your excellency reminds me of the grave responsibility which I assume in asking it, I beg to be permitted to respectfully withdraw that request. Other motives constrain me to this withdrawal, and especially, if I have correctly understood your excellency, if there be no room for discussion, and if it be useless to present such proofs as my Government may send me to offset those of Señor Santos. I shall abstain, therefore, from presenting any proofs whatever, and will confine myself to reporting what has occurred.

I deem it due to add, Mr. Secretary of State, that I believe in my conscience that I have done all in my power for the immediate freedom of Señor Santos, and I say "freedom" (*libertad*) because I am convinced that he has been already judged; but if your excellency thinks that I can do anything more, I would esteem it a favor if you would be pleased to suggest it to me. Had my Government conferred upon me the authority to order from this place such a setting at liberty, I would have promptly ordered the same according to the conditions of my telegram of the 15th. But the Government could not confer upon me an authority which it lacked itself; and to this I understand that the delay is due. I hope, nevertheless, that, the obstacles which may have been the cause of the delay being smoothed away, I shall receive from one moment to another a favorable decision.

Meanwhile, I beg your excellency to bear in mind the painfulness of my situation, and at the same time to accept the assurances of the very high consideration with which I have the honor to subscribe myself,

Your very obedient, humble servant,

A. FLORES.

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No. 131.

[Telegram from President of Ecuador to Ecuadorian minister, dated 24th June, 1885, and shown to Mr. Bayard by Señor Flores, 25th June, 1885.]

I have decided to ask from Congress pardon, in order to save Santos. Suspend everything and answer.

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No. 132.

*Mr. Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,  
Washington, June 26, 1885. (Received June 26.)

MR. SECRETARY OF STATE: I yesterday had the honor to verbally inform your excellency, and I confirm it by this note, according to our agreement, that I received night before last an official telegram from



Guayaquil informing me that His Excellency the President of Ecuador had decided to ask Congress for a pardon, whereby he would be enabled to release Mr. Santos.

I feel confident that the telegram which I requested your excellency to send to the agents of the United States at Guayaquil instructing them to suspend all proceedings will arrive in time, and will have the effect which we both desire in behalf of the friendly relations between our respective Governments.

The aforesaid dispatch from Guayaquil confirms the statement made in a previous communication to the effect that Mr. Santos was being tried. There was, consequently, no way to settle the matter favorably except a pardon, which can be granted by Congress only when that body is in session.

The said communication, which was dated Guayaquil, May 27, informed me that a copy of the proceedings in the case of Don Julio R. Santos had been sent me. Mr. Santos was, consequently, then on trial, and as Congress was to meet on the 10th of June, it was an act of deference to solicit from it the pardon which the executive alone can grant when Congress is not in session.

This explains the delay of a few days which occurred subsequently to the receipt of my telegram of the 15th, which, as we know, reached Guayaquil on the 21st, although we do not know when it reached Quito, whither the President had returned from Guayaquil on the 16th of that month.

I do not think that it can be doubted that the trial of Mr. Santos was going on in due form of law, because, if the case had been otherwise, the executive would have had no need of asking for a pardon.

The opposition press, moreover, would not have failed to bring the same charges against the Government that it has brought on previous occasions when it thought that the Government had violated the constitution even in the slightest degree. Besides, as Congress is now in session, it would be very strange, in case anything alleged had been done in the case of Mr. Santos, if the executive had not been called to account, and if no charges had been brought against him. And with all the more reason if the charges against Mr. Santos had not been very clear.

That all doubt as to their clearness may be removed, it will be sufficient to read the report of Col. Modesto Barbaro, whose forces captured Mr. Santos with arms in his hands at the head of a party of twenty-six men who were in rebellion against the Government of their country.

I give below that portion of said report which has reference to the capture of Santos. This report was sent from Esmeraldas on the 8th of January last by the aforesaid colonel to his superior officer:

\* \* \* I dispatched Commander Arijel Maria Valencia and Capt. U. Moran to the parish of Chone, in order that they, in conjunction with Col. Daniel Grarja, might take suitable measures to intercept all communication.

The result was favorable, for at a point called Segua they captured the leader of the band, viz, Julio Santos, with three officers and twenty-six men from various places, from whom they took ten rifles, one thousand percussion caps, three boats, and one canoe.

The term "leader" explains why the general pardon that was granted to the revolutionists by General Reynaldo Flores, the commander-in-chief, on the 26th of January, 1883, did not include Mr. Santos, inasmuch as the terms of the decree exclude "the leaders."

Whether Mr. Santos was a leader or not, I should have desired his pardon; if I had been aware, however, on the 15th of May, that he was being tried, I should not have asked for his release, since the executive

had no power to grant it; because, article 91 of the constitution provides that the course of judicial proceedings shall not be arrested, except in case of an amnesty or general pardon.

I asked for his release then because I thought that he was not on trial; and for the same reason I requested your excellency, in my communication of May 15th, "to allow me to state that the trial had already taken place," and added "therefore Mr. Santos has been tried." I had the greater reason to believe that Mr. Santos was not on trial, since your excellency yourself, in your communication of May 14, was pleased to say, "The perusal of these documents will give you an opportunity to ask for the trial or release of Mr. Santos."

At all events, either before the trial which was asked for, or after it had taken place (and I thought that Mr. Santos was in the latter case), but not during the trial, the release of the prisoner by means of an executive order was possible, and I consequently asked for it with the utmost readiness and without any discussion whatever.

I make this explanation in justice to my Government, which, during the trial, was unable to suspend the judicial proceedings simply in order to favor one of the prisoners at the bar.

It is also proper for me to inform your excellency that in addition to the documents which I received with the aforesaid note of May 27 I expect to receive others, the transmission of which was announced to me by an official telegram sent from Guayaquil on the 22d instant. This shows that I was right in telling your excellency, as I did in my note of May 30, that I could not proceed to settle the point in dispute, referring to the case of Mr. Santos, without awaiting the arrival of all the documents which my Government had informed me by several telegrams that it proposed to send me, and that I could not accept the space of a few days for such settlement, especially if I was to be held responsible for the delay, since the reception within a determined period of the documents, without which it was impossible for me to carry out the instructions of my Government relative to the nationality of Mr. Santos, was a matter over which I had no control.

I leave it to your excellency's sense of justice to decide whether, before the receipt of the documents announced by my Government, it was possible for me to reach a decision, when, as soon as I arrived in New York, on the 13th of May, I requested your excellency to take no action before you had given us a hearing.

Even if I had in my possession all the documents that could be sent from Ecuador, and even supposing that they left no room for doubt and that they required no explanation whatever, it would not be possible for me to obey the instructions of my Government without having previously ascertained that Mr. Santos had been "duly naturalized" according to the existing treaty, which, as I understand, must be shown by his certificate of naturalization, which I have not seen and which I cannot obtain, and also by proper proof that he "has resided in the United States uninterruptedly during the time fixed by law," likewise in accordance with the treaty.

Such being the situation, and the proposition of my Government on the subject not having been accepted, I was obliged to confine myself to informing it of everything, to awaiting its orders, and in the mean time to endeavoring, as I did, to secure the release of Mr. Santos, which was the only urgent matter, inasmuch as the question of his citizenship was reserved until afterwards.

It only remains for me to reiterate to your excellency the assurance, &c.

A. FLORES.

No. 133.

*Señor Flores to Mr. Bayard.*

[Telegram.]

WASHINGTON, D. C., July 4, 1885.

I am most happy to announce you that, according to official cable-gram just received, the amnesty has been granted.

ANTONIO FLORES.

No. 134.

*Señor Flores to Mr. Bayard.*

[Telegram.—Personal.]

WASHINGTON, D. C., July 4, 1885.

To Secretary BAYARD:

With the announcement of amnesty I am directed to request that the Iroquois should be altogether withdrawn even from the neighboring port of Payta, a measure which I trust will prove of great mutual advantage. A prompt answer will oblige.

FLORES.

No. 135.

*Mr. Bayard to Señor Flores.*

[Telegram.]

WILMINGTON, DEL., July 4, 1885.

Understanding from your announcement of amnesty that Santos is now at liberty to come home, the Iroquois will be recalled.

Show this to Mr. Adee.

T. F. BAYARD.

No. 136.

*Mr. Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,

*Washington, August 6, 1885. (Received August 7.)*

Mr. SECRETARY OF STATE: The freedom of Don Julio R. Santos having been proclaimed by His Excellency the President of Ecuador, on the 11th of July, by virtue of a general amnesty, which Congress granted at the recommendation of the executive, in favor of almost all who are engaged in the rebellion of 1884 (as I had the pleasure of informing your excellency by my telegram of the 13th ultimo), I feel it my duty of bringing to your excellency's notice some observations and important facts which my Government has lately transmitted to me



concerning the matter now before us of the nationality of the said Mr. Santos.

I shall commence by declaring that my Government has no interest in the nationality mentioned. It is only striving, in view of its friendly relations with the United States, to fix the true meaning of the naturalization treaty now existing between the two Republics, and is trying by a loyal fulfillment of it on its part to carry out its duty in regard to the nation of Ecuador, of preserving for it intact the rights which that former (the treaty) confers upon it, which, as your excellency knows, it would not be possible for the executive to yield without grave responsibility.

Nevertheless, my Government is sincerely convinced that Mr. Santos had settled permanently in Ecuador, and that, consequently, he had resumed his Ecuador citizenship, in conformance with the treaty mentioned.

It bases its conviction on the following facts :

(1) D. Julio R. Santos, since his naturalization in the United States, has resided six years continuously in the country of his birth, which is also that of his parents, of his whole family, and the domicile of them all. He remained there consecutively thrice the length of time which, according to article 3 of the treaty of 1872, "is regarded as the intention to reside in the country, and not to return to that in which he was naturalized." Therefore, my Government has a perfect right to regard him as *prima facie* a citizen of Ecuador "until that presumption shall be destroyed by proofs to the contrary." With what concerns these proofs I shall occupy myself more fully below.

(2) Mr. Santos has owned, and now owns, together with other members of his family, landed property in Ecuador, without, in the six years last past, any notice having been given, as is customary, of the sale thereof, or any known attempt having been made to alienate it.

(3) He has been at the head of a commercial house in Bahia, and although it is stated that he desired to found another in New York since 1881, the fact of his having allowed that plan to rest for four years without carrying it out, indicates either the vagueness and uncertainty of it, or that he could not realize it.

(4) Another decisive circumstance is that in the very letter of his brother D. Santos E. Santos, which was shown me in the Department of State, as referring to that intention, that gentleman wrote from New York, July 17, 1881, "I have resolved to settle here; Julio and Antonio will supply my place in Bahia." Thus from the very testimony of those interested, and that, too, brought forward by themselves, the opposite of what they aver appears; since, according to it, D. Julio was to remain in Bahia, even in case the house mentioned was established in New York. This letter breaks down the proofs which have been brought to the contrary.

(5) In addition to the real estate and commercial house which D. Julio R. Santos owns in partnership with his brothers, he possesses, likewise, together with them, a dwelling house or residence in Bahia, a permanent abode.

(6) He has accepted from the Government of Ecuador an office, and "only citizens of Ecuador in the exercise of the rights of citizenship can be public functionaries," according to article 36 of the constitution of Ecuador. D. Julio R. Santos is precisely in the position indicated by the Department of State in its circular of the 14th of October, 1869, concerning the method of resuming original citizenship, even apart from the express provision of the treaty in force, since "a

naturalized citizen," states the said circular, "can resume his original allegiance, and relieve the Government of his adopted country from the obligation of protecting him in the country of his birth, either by returning to the latter with the clear intention of remaining there, or by accepting offices incompatible with his adopted nationality."

The President's message of that same year corroborated these views, and described, likewise beforehand, the Santos case in the following words:

They accept offices of honor and trust, which can be filled save by citizens; they reside constantly outside of the United States; they do not contribute at all to the revenues of the state; they avoid the duties of citizenship, and only have themselves recognized as such to demand protection.

A citizen of the United States, native or naturalized, who fulfills his obligations to his country, has a claim to its entire protection.

While I have any part in the management of public affairs I shall never consent to the compromise of that sacred right by granting it to false or fraudulent claimants.

And previous to the lamented General Grant, the martyr President, in his message of 1863, had called the attention of Congress to similar abuses and to the necessity of putting an end to them:

I have reason to believe that many persons often become citizens of the United States with the simple intention of ridding themselves of the duties which the laws of their own country impose on them, to which they return, after having been naturalized, and where they demand our protection without ever returning to the United States. From this abuse great injuries and serious disputes arise. It is perhaps well to fix a limit beyond which no citizen of the United States, resident abroad, may have the right to demand the interposition of his Government.

And if President Lincoln thus correctly reasoned in regard to citizens living abroad, with how much greater reason would he have been of that opinion in regard to naturalized citizens who return to the country of their birth, and who conspire there against the Government, as appears in the case before us.

(7) Finally, the concluding proof against Mr. Santos is the active part he took in the last revolution, until he was arrested, with arms in his hands, heading a party of rebels, as the official report of Col. D. Modesto Burbano declares, a copy of which I sent in my former note. If he had resolved to come and establish a commercial house in the United States, it is not likely that he would have taken part in a revolution for the purpose of bringing about a change of government in the country which he did not regard as his own, nor as that of his future residence.

From another point of view his conduct would be even more unjustifiable; since, if, believing himself to be an American, he knowingly violated the laws of neutrality of his adopted country, it is hard to comprehend how he can invoke the protection of the latter Government against the country where his cradle was rocked, as was that of his parents, and where the ashes of the latter are lying.

The proclamation of President Grant, dated 22d August, 1870, declares that no American citizen who violates the laws of neutrality can obtain protection from this Government; "they can in no wise obtain any protection from the Government of the United States."

So that, supposing Mr. Santos a citizen of the United States, the violation of neutrality perfectly proved, as will be shown below, deprived him of the right to the protection of his Government.

He was, in this regard, in the position of the American captain, Clark, of whom the minister of the United States, Frederic Hassaurek, commissioner of your excellency's Government in the Ecuador-American Mixed Commission, which met in Guayaquil in 1864, by virtue of the

arbitration convention made there between the plenipotentiaries of our respective Governments on the 21st November, 1862, spoke as follows:

Not only by what he did, but by his manner of doing it, Captain Clark violated the laws of his country, whose intervention and aid he now asks.

He violated the laws of our country, he disregarded solemn duties imposed by treaties, he compromised our neutrality, he rendered himself liable to be tried. Should our Government desire to offer a reward to evil-doers for the violation of its laws and treaties?

With these words of lotty political morality, which exalt the international equity of the American Government, its worthy representative in Ecuador rejected the claims of Clark. Not to accumulate examples of the denial of protection to the violators of American neutrality, even in a case where that violation had been unintentional, I shall confine myself to quoting the remarkable decision of the third adjournment of the Spanish-American Commission at Washington, whose decisions cannot be suspected of bias against the United States, as the last of them caused the protest of the Spanish arbitrator Marquis de Podestad Fornari, on account of which the labors of the said commission remained for a long time suspended.

In the case of the American citizens Charles H. Campbell and Agustín A. Arango, arising out of the capture on the high seas of the brigantine *Mary Lowell* during the Cuban insurrection, Minister Blanc decided on June 19, 1879, that "as Charles H. Campbell had allowed, voluntarily or *through negligence*, the brigantine to fall into the hands of the insurgents, the claimants lost their right to the protection of America."

And if, being undoubtedly Americans, they lost their right to the protection of their Government against a foreign power, what would have been the case when it was a question of their protection against their own native country, even in case there had not been, as there was in the Santos affair, a controversy concerning their nationality?

Mr. Wharton, the present learned examiner of claims in the Department of State, who has reported in favor of Mr. Santos, quotes in his celebrated work on the Conflict of Laws (chapter 11, section 9), article 40 of Westlake's International Law, which establishes, as a "recognized rule of international law, that the state to which the allegiance has been transferred has not the right to protect the citizen against his former Government, if by a voluntary act he places himself within its jurisdiction."

This doctrine has been applied by the Secretaries of State most jealous of the right of protection abroad, as Webster and Everett, and even by Marcy himself, who carried further than any one the limits of that protection, which, nevertheless, was refused to Samson Tousig and to Zaunoni against the country of their birth, on the ground that they had voluntarily returned to it.

With how much more certainty would it then have been denied, if that return had been followed by a residence of six years, and been accompanied by the possession of real property, of a mercantile house, of a dwelling, and finally of the acceptance of a public office.

In order that D. Julio R. Santos should undertake to defend himself against his native country by American citizenship, he ought at least to present the proof of it demanded by the Department of State, according to which "the right of enjoying the privileges of American citizenship must be proved by a passport legally issued," as it informed, in its note of 5th October, 1879, Mr. John Jay, American minister in Vienna.



Mr. Santos's participation in the revolution of November, 1884, is proved not only by the report, which I have already had the honor of inclosing to your excellency, of Col. D. Modesto Barbano—from which it appears that the former was arrested with arms in his hands, at the head of a party of rebels—but also by various statements made during the trial which followed, a résumé of which is inclosed separately, in order not to lengthen too much my present note.

My Government informs me that the said trial has proceeded according to law, and that if it did not progress with the desired rapidity, notwithstanding its repeated warnings to that effect, it was because the large number of rebels comprised in the same indictment rendered of frequent occurrence the declination to serve made by the judges and attorneys of the Government on account of relations of friendship or family with some one of the accused. But the fact is that a separate judgment was not rendered against Santos, but that he was joined in the general judgment rendered against the citizens of Ecuador indicted with him, and with the same facilities and means for defense that they had, although none of the latter has filed a petition or an appeal before Congress, which is now in session—an irrefutable proof that they have been tried according to law.

Therefore, even under the supposition that Mr. Santos was an American citizen, he would not have any reason to complain, seeing that he had been placed on an equal footing in all respects with the citizens of Ecuador, the only point which article 13 of our treaty with the United States requires.

In regard to the affidavits which were presented in the Department of State, on the 15th of May, in respect to the asserted intention of Mr. Santos to return to the United States, my Government considers that they are lacking in attesting force:

(1) Because they proceed from relations or connections of Mr. Santos; and

(2) Because the taking of affidavits in Ecuador ought to be in accordance with the laws thereof, which demand the citation of the opposite party. If the Government attorney of Ecuador had been cited, he would have had the examination of witnesses in his power, and the other legal means for establishing the truth.

Among the affiants there are seven of the Santos family itself, as the very name they bear proves in regard to five of them. Two others, though not bearing the name, are likewise relatives of his. One, D. Rodolfo Halstead, is married to a sister of the Messrs. Santos, and D. F. C. Centeno to their relative. Another affiant, D. Cumucindo Vitlassis, has been an accomplice in the same crime of rebellion. And, as far as concerned, those who have made affidavit in the United States, no one has taken the trouble to conceal his manifest partiality in favor of D. Julio.

Nor has any one brought forward the latter's letters, in which his intention of returning is clearly set forth. And, even if they should be produced, if by means of them the requirements of the proof which the existing treaty demands should be satisfied, the latter (the treaty) would be of no effect, since it would be in the power of every naturalized person to easily elude it, by merely writing a few letters in which he should declare his intention of returning to his adopted country.

As a result the object of the treaty, which was to put an end to abuses of naturalization, would be prostrated completely, the said abuses having been indicated before its ratification by two illustrious Presidents,

whom their country reveres, and by a distinguished predecessor of your excellency, likewise held in affectionate remembrance.

If Mr. Santos had produced satisfactory proofs of having intended to settle in the United States my Government would have been ready to recognize him as an American citizen, but it is firm in its conviction that he has not produced them.

In the opinion of my Government, the proofs which its treaty of naturalization with the United States demands, ought not to consist in mere "verbal expressions which indicate the intention of a change," since, as Wharton, the authority quoted, very correctly points out, these "are, if not accompanied by the actual change of residence, so vague, and frequently uttered so carelessly, that they deserve very little faith." (Conflict of Laws, chap. ii, sec. 63; Phillimore, iv, 156; cases of Lord Somerville, Harvard College, Anderson against Lamentville, Halowell against Saco, and that of the Venus.) According to Story "the intention without the actual change of residence, has no significance."

It has been, without doubt, for that reason that in Massachusetts the declarations of persons whose domicile is in question have been rejected, the rejection being grounded on the fact that they do not constitute part of the *res gestæ*, which are admissible as testimony. And although Story thinks they are themselves admissible testimony touching the intention of residing in a certain place, he lays down as a condition for this that they must have been made before the controversy arose. (Conflict of Laws, 45, 46, chap. 3.) Moreover he does not refer to the original domicile (domicile of birth), which he admits "is easily resumed," according to the various decisions of the judiciary of the United States from the case of Catlin Gladding to that of Francis (4 Mason, 308; 8 Cranch, 335). And even when treating of the domicile in a foreign country Story considers it as such domicile, despite of any vague intention of returning at some future time. All the more so when it is a question of the original domicile, in regard to which there cannot be a clearer commentary than that made in treaties of naturalization by the same Secretary of State with whom I had the honor of signing ours.

His words are as follows:

The adoption in many treaties of the period of two years as that in which the intention of not returning to the United States may be presumed to exist on the part of the naturalized citizen who has returned to his native country, indicates that, although the principle upon which is sustained the right of protection to naturalized citizens is the same as that which operates in respect to native-born citizens; nevertheless, there is taken into account the strong propensity to resume the original nationality on the part of one, who, having emigrated from his country, finds afterwards the attractiveness of the friendships of youth and the bonds of family affection.

And the tendency to resume the original domicile is more powerful even than that to resume the nationality, as is proved by the many similar cases to that of Santos which have been laid before the various mixed commissions sitting in Washington. It is, then, to arrest that tendency that the treaties of naturalization have been signed.

My Government considers that the admission of the testimony ought to be subjected to the principles which regulate controversies between nations, in accordance with the opinion of Judge Strong, arbitrator between the United States and Hayti, in the case of Pelletier, April 13, of this year, and that, if there is properly room for more liberty in this respect in international law than in the civil, the admission of testimony ought to be limited to that of the second degree, as the judge mentioned limited it. Since for the rest, "as far as concerns the capacity of the witnesses and the validity of the testimony, that ought to be decided

by the law of the country where the question arises," conformable to the decision of Lord Brougham, quoted by Story, 3, 634, in chap. xviii.

Faithful to American principles my Government adheres to that formulated by the judiciary of the United States, that "residence is the origin of domicile; that a long residence is proof of intention." (Johnson v. Falconer, 2 Paine, 602, Van Ness, 1), and that "as the nationality is easily resumed, fewer circumstances are required to constitute the domicile in the case of a native-born citizen than to fix that character on the native of another country," in accordance with the teaching of Wheaton (Int. Law, par. iv, sec. 324), a doctrine which another more modern American treatise extends by the following rule:

The proof that one declares that he has abandoned his native country ought to be clearer and more satisfactory than what would be required if it were a question of foreign nationality. Since, while the original domicile is easily resumed, the same is not the case with the foreign or acquired one. (A Treatise on Citizenship, p. 101, Alexander P. Morse.)

And so Santos's domicile in Ecuador, and his consequent resumption of his original nationality, have resulted not only from the treaty, and from the series of facts mentioned in connection with it, but also from the very declaration of the executive power of the United States, from the judgments of its tribunals, and the American rules and practices above quoted, all which have served my Government as a rule and an example in this matter.

In conclusion, my Government has thought that in the matter of a treaty to which Ecuador was a party, any doubt concerning its interpretation ought to be settled by common accord, and that if this were impossible, the honorable example set by the United States themselves ought to be followed, namely, of submitting the disputed points to arbitration, as so many cases of various kinds have been submitted to the mixed commissions formed in Washington, in Lima, Guayaquil, Caracas, and in Ginebra. My Government has been not the less able to hope to find itself entirely in accord with your excellency's in this matter, since it is the mere application of the American policy.

Having laid before your excellency the facts and the foregoing remarks which show the honest purpose with which my Government has proceeded as well as the strong desire which animates it, and of which it has given recent and undeniable testimony, to remove every ground of controversy with the Government of the United States and rather to strengthen the good relations which happily subsist between the two Republics, I take pleasure in renewing the assurance of my highest consideration, and I have the honor to be your excellency's very obedient and very humble servant,

A. FLORES.

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[Inclosure in note of August 6, 1885.—Translation.]

*Copy of the proceedings in the trial of D. Julio R. Santos, in the province of Manahi, for participation in the revolutionary movement of November, 1884.*

(1) Letter from one of the leaders of the revolution, D. Juan Francisco Centeno, to D. Julio R. Santos, acknowledged by Centeno in open court to be his.

Señor D. JULIO SANTOS,  
Bahía de Caraquez:

PORTOVIEGO, November 17, 1884.

ESTEEMED FRIEND: Since yesterday we find ourselves here absolute masters of the place without shedding a drop of blood. Everything is proceeding in perfect order, and we are reconstructing things in the best possible way. You must gather together



as many friends as you can and come immediately with as many rifles as there are, and bringing the box case of cartridges which is in your possession. Now we only need a little activity and energy.

Your devoted friend and faithful servant,

J. F. CENTENO.

Following declarations under oath:

(2) D. Rafael Enriquez:

[Summary.]

That Señor Julio R. Santos was one of those who went on board the Alajuela at Bahia on the 26th November, 1884, to receive the revolutionary leader, D. Eloy Alfaro, with cries and shouts of great enthusiasm. It was publicly known that Señor Julio Santos was the military commissary of Alfaro's forces.

(3) The Peruvian, D. Arturo Benitez, declares:

"That Mr. Julio Santos paid the soldiers their money for supplies, and that he was several times heard to say that he had no money; he also quartered, as troops, some citizens of this town (Bahia)."

(4) The brevet lieutenant-colonel, D. César R. Estrada, customs officer of Bahia, declares:

"That Mr. Julio Santos and other persons, whom he names, have been bitter Alfarists (partisans of the revolutionary leader named Eloy Alfaro), and consequently enemies of the Government; they have terrorized the mass of the people, forcing them to take up arms in this wicked revolution. D. Julio Santos ordered it to be said that the loyal servants of the Government were *lost* [perdidos] (equivalent in Spanish to the word used), because Alfaro was bringing an iron-clad, and that by means of the latter seven provinces had been revolutionized. Mr. Julio Santos was the one who paid the notes for supplies, and he had frequent conferences with Eloy Alfaro. Declares that the said Mr. Santos took and imprisoned some citizens of this city, and that at the last moment he carried some off in his flight."

(5) D. David Marin:

"Saw D. Julio R. Santos among those who went to receive the revolutionary leader with cries of 'Long live Alfaro.'"

(6) The sergeant-major of the army, Manuel Morales:

"All that has been noticed in this place has been a revolutionary plot hatched by Messrs. Julio R. Santos, Gueurcindo Villacio," and others whom he names.

(7) D. José R. Bernal declares:

"That Mr. Julio R. Santos paid notes for supplies to the Alfarist troops, and he was captured with an armed band of men. In his house he had arms which he served out to the revolutionary troops."

(8) D. Francisco Avellan, governor of the district and police commissioner of the district of Sucre:

"It is a matter of public notoriety that Mr. Julio R. Santos took a very active part in the revolution, \* \* \* and moreover he was captured in a boat with an armed band and ammunition; he had been informed of this by Messrs. Ignacio Andrada, Commandant Gregorio Izaguirre, José R. Bernal, Facunda I. Guerra, and others."

(9) The Commandant Ignacio Andrada:

"He arrested Mr. Julio R. Santos together with men armed with Remingtons and ammunition."

(10) Colonel Daniel Granja:

"It is certain that D. Julio R. Santos took part in the revolution, and he asserts it from the voluntary confession of the said Mr. Santos, which he made in the presence of the escort and the authorities when he was taken prisoner, together with an officer, two officials, the political agent Belisario Obeiga, and other persons, with the corresponding amount of arms and ammunition; in that confession Mr. Santos (J. R.) said, among other things, that he was the military commissary of Mr. Alfaro, of whose plans he was informed, and that he could obtain from the latter a suspension of hostilities."

(11) Don José Pedro Zambrano:

"Noticed that all the meetings of the revolutionists took place at the house of D. Julio R. Santos."

(12) Mr. Eduardo Govea:

"The part taken by Santos in the revolution is free from any doubt; attests his capture, having been an eye-witness, at Point de la Legue, together with twenty-six persons, the majority being armed with Remingtons. Among them came Captain Flavio Palacios, who had fought on board the Alajuela."

(13) Commandant D. Brailio Zambrano Dias, real estate owner:

"The part which Santos took in the revolution is free from any doubt; avers that he was captured in a canoe with arms, ammunition, and other contents; the commander of this flotilla was Mr. Julio R. Santos."

(14) D. Pedro Zambrano makes the same declaration, with the exception of the last clause.

(15) Commandant José Pazmino Dias avers:

"The participation of Santos in the revolution, as he captured him in a canoe loaded with arms and ammunition, in which were coming eight armed men, and besides, two other boats and a canoe full of armed men in hostile guise; in his opinion this Mr. Santos was the leader of this flotilla; he also knows from the rebels he took prisoner that he was the military commissary in Bahia during the revolution."

(16) D. Ramon Resavalo declares:

"From hearsay, the share of Santos in the revolution and his arrest at the head of an armed band."

The following declare not under oath, because they were engaged in the revolution.

(17) D. Manuel B. Aveiga:

"That he was taken prisoner in company with D. Julio R. Santos and others." Among those who originated and engaged in the revolution he names D. Julio R. Santos.

"He showed much enthusiasm and pleasure one evening when a steamer approached which they believed was a revolutionary one, and great interest, inasmuch as signal lights were displayed, which his own servant managed."

(This active share in these signals is confirmed by many other witnesses.)

(18) D. Miguel O. Estrada:

"Mr. Julio R. Santos was one of those who took part actively in the revolution with his money in order to support the troops, and with arms." Besides having contributed his money he also gave provisions and clothes to Alfaro's band.

(19) Sergeant-Major D. Serafino Santos:

"Julio R. Santos had the men whom Manuel Hidalgo commanded quartered."

#### ACCEPTANCE OF AN OFFICE IN ECUADOR.

It appears from the statement made by Julio R. Santos under oath on the 3d July last, at Portoviejo:

(1) That he accepted the place of treasurer of the funds of the Cis-Andine road, and (2) that in order to enter upon the performance of the duties thereof he gave the bond with security required by law. This security was accepted by the treasury board October 20, 1884.

#### REMARK.

As regards Mr. Santos having prepared his departure from the country, would he have accepted a position to manage moneys whose expenditure required the examination and approval of the Quito board of accounts, in accordance with the customary procedure, which is so slow and tedious from its very nature that those interested are accustomed to go to that capital in person to present their accounts, and remain there as long as is necessary for their final approval? And in small towns, where everything is known—Bahia has only thirty houses—could he have kept his purpose secret?

These facts, the security for the management of the funds given by Messrs. Ignacio Palari & Co., Guercindo Villasis, J. B. Santos, and Benito Soler, and the very nomination of the Government made in his behalf, on August 30, 1884, which is introduced on the trial, seem incompatible with the purpose Julio R. Santos is said to have entertained, of quitting his country, especially as his mother was there sick with the chronic disease of which she died after the revolution broke out.

#### ADDITIONAL PROOFS.

Manuel Vergara and Arturo Benites testified, in the course of their examination, that they had been soldiers of Alfaro, had fought at Portoviejo, and that it was D. Julio R. Santos who took them and had them quartered!

Page 134 of the publication *La Campaña de la Costa*, by the commander-in-chief, Reynaldo Flores, in which Julio R. Santos is asserted to be accused of being one of the principal partisans of the revolution, Colonel Burbano found arms in the very tomb of Mr. Santos, the father of Mr. Julio R. Santos, and in close proximity with his mortal remains.

Would the last-named gentleman have allowed a sacrilegious hand to profane in this manner the ashes of his worthy father if he had not been a participant in that act?

No. 137.

*Mr. Porter to Señor Flores.*DEPARTMENT OF STATE,  
*Washington, August 15, 1885.*

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, alluding to the inclusion of Mr. Julio R. Santos in a general amnesty which the Congress of Ecuador granted in July last in favor of almost all who were engaged in the rebellion of 1884, and making certain observations upon the citizenship of said Mr. Santos.

Accept, sir, &amp;c.,

JAS. D. PORTER,  
*Acting Secretary.*

No. 138.

*Señor Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR,  
*New York, August 31, 1886. (Received September 1.)*

MR. SECRETARY: The correspondence relative to the case of Don Julio R. Santos, transmitted by your excellency to the House of Representatives July 26 last, and published by order of that body, has unofficially reached my hands.

I regret to find myself obliged, complying with an unavoidable duty, to call your excellency's attention to the fact that what is printed at pages 38 and 50 of the said correspondence as my English translation of my telegram of May 15, 1885, to the President of Ecuador is the very English text agreed upon with your excellency, which I now have with the corrections made by your excellency. Therefore what I translated was the said English text into Spanish, and not *vice versa*. Nor could it have been otherwise, because, for the contrary to have been the case, it would have been necessary for your excellency to have first agreed with me upon the Spanish text of the telegram, and not, as was the case, and naturally so, on the English text, which was as follows:

WASHINGTON, *May 15, 1885.*

President CAAMANO,

*Guayaquil:*

Give permission to Santos, at my request, to leave for the United States by next steamer, he binding himself not to conspire and giving written statement he has never conspired, reserving all question of citizenship. Answer "Agreed," and question settled.

FLORES.

With the hope of avoiding this official note, painful to me on more grounds than one, I hastened to address your excellency a private note on the 7th of July last, in order to bring to your attention, there being ground for it, the fact that the word "reserving" written in the rough draft of my telegram before "all question of citizenship" had been placed there by your excellency himself as one of your corrections, as was easy to be ascertained from the original to which I referred. Your excellency was pleased to make two other corrections in the telegrams quoted, and the time has come for explaining the meaning of those



words of mine which were the object, in some degree, of your excellency's suppression or emendation.

The first had reference to the word "passport," which your excellency replaced by the word "permission," a correction which I accepted at the time without remark as I had no other object in view than the immediate settlement of the question of Mr. Santos's liberty. But it is now my duty to present to your excellency, in the inclosed papers No. 1 and No. 2, the proof of the propriety of that expression and of the necessity of the passport under the circumstances then existing, conformably with the uses and customs of Ecuador and its very constitution.

I shall thank your excellency, if, after reading the said documents, any doubt remains in your excellency's mind in respect to the matter, to inform me of the same, inasmuch as a distorted interpretation has been publicly given to what was merely the customary language of my country and in compliance with a constitutional requirement.

In fact, not only does article 32 of the constitution make mention of a passport in time of war, but also, according to article 94 of the said constitution, "if the person accused" (of conspiracy) "shall ask a passport to leave the Republic, it shall be given him."

Both these weighty reasons induced me, therefore, to request a passport for Mr. Santos in the telegram which I composed in your excellency's presence on the 15th of May, 1885.

And in order that your excellency may form a more complete idea, not of the rectitude of my intention towards my Government, which is fortunately apparent, and I think cannot be called in question, but upon my private efforts to bring about the desired result, I pass on to your excellency's other emendation to my telegram. It consisted in the elimination of the words "*bajo fianza*," under bail, with which I desired to request the liberation of Mr. Santos. For, Mr. Secretary, this is also the proper time to reveal to your excellency that I privately offered my security, without informing your excellency thereof, for the said Mr. Santos; and, if I mention it now, it is because it is stated by implication in the following words of the note of Mr. Martin Reinberg, vice-consul of the United States at Guayaquil, dated May 29, 1885, and printed at page 42 of the official publication I have before me:

He replied [the Governor of Guayaquil] that in answer to the telegram of the Hon. Antonio Flores, minister of Ecuador at Washington, requesting the release of Mr. Santos and his departure to the United States, the Quito Government had telegraphed him to transmit to Mr. Flores the following:

"That before Mr. Santos could be released the guarantee of Mr. Flores for the prisoner's bail must be sent in a proper legal form.\*"

The previous words explain the meaning of the following telegram from His Excellency the President of Ecuador, which I showed your excellency on the 29th of May, 1885, "Draw document first," which neither your excellency nor I could understand in the Department, because of the omission of the word "*fianza*" (bail) in the telegram.

But for this circumstance I should have hastened to have had the proper document drawn immediately, and would have then obtained the liberation of Mr. Santos by means of my own pecuniary responsibility. In any event the satisfaction remains to me of having given to the United States this additional and irrefutable proof as well of the loyalty of my procedure as of my ardent desire to settle this matter promptly and satisfactorily and to remove every cause of difference.

\* Words in quotation also given in Spanish.

Before concluding, I beg to be permitted to make three additional observations:

(1) I find omitted in the printed documents my reply of the 15th of May to your excellency's note of the evening previous, a reply which I delivered in person in the Department at 10 a. m. of that day.

(2) I have now for the first time become acquainted with the Department's correspondence with the United States agents in Ecuador respecting the Santos affair, inasmuch as on the 15th of May, 1885, only the papers transmitted by Mr. Santos or his friends and the opinion of Mr. Wharton were shown to me.

I could, therefore, scarcely have expressed any opinion on a correspondence which I had not seen, nor on the position which ought to be assumed as a result thereof; and if the contrary has been believed, it is my fault or misfortune not to have expressed myself.

(3) I say as much in respect to the "belief" which it is thought "I showed on May 15, 1885, that my powers were sufficient to propose an arrangement by which Santos should be set at liberty," page 50 of the correspondence. In respect to this matter I refer to your excellency himself, who, on the previous page (49), is pleased to state very exactly:

Mr. Flores declared that he was in ignorance of the merits of the case, he not having received the instructions which his Government had announced as on the way to him.

I was, indeed, at that date, May 15, 1885, without powers as regards the Santos matter or instructions of any kind, which only reached me May 30, as moreover is mentioned by your excellency at page 51:

On the 30th of May, Señor Flores addressed me a note in which he informed me he had received from his Government instructions in which he was empowered to settle the Santos matter.

Only at that time, therefore, and not previously was I empowered to settle the Santos question; that is, in respect to his nationality, since, so far as his liberation was concerned, I declared in my note of the 2d of June, page 47, that "my Government could not confer on me an authority" [that of Santos's liberation] "which it did not have itself."

I regret most strongly, therefore, that it may have been believed that my Government should have "authorized" me "to offer the settlement" of May 15, 1885.

If the said authority had been given, it is clear that I would not have needed further approval of the plan of settlement which was conceived by me, without the instructions above mentioned, and to which I was moved solely by my very ardent desire to terminate the affair by means of the liberation of Mr. Santos, and the reserve or the compromise of the question concerning his nationality. To this second point, and not to the first, did my note of May 30, 1885, refer; also the later one of June 2, of the same year, in which I thought it useless to fix a term apparently short for the presentation of documents which, in my judgment, could only be collected after some delay.

Certain it is that only about the middle of the present year has it been possible to send me the series of proofs which appear from the annexed résumé which the attorney sent by my Government to the province of Manabí for the purpose, transmitted with them (accompaniment No. 3).

The said evidence moreover establishes the other points stated therein concerning the legality of the proceedings in the trial which Mr. Santos underwent, the freedom accorded for his defense, and his good treatment in prison.

Not desiring to further trouble your excellency's attention, I confine myself to mentioning the fact, and conclude by begging your excellency to accept, &c.,

A. FLORES.

[Inclosure 1 in note of August 31, 1886.]

*Señor Jaramillo to Señor Don Antonio Flores.*

REPUBLIC OF ECUADOR,  
ADMINISTRATION OF THE PROVINCE OF GUAYAS,  
*Guayaquil, July 16, 1886.*

According to article 32 of the constitution of the state, "All persons shall be permitted to travel freely, to change their domicile, to leave the Republic and to return to it, taking with them or bringing back their property. The case of war is excepted, when a passport is necessary."

This passport, required of citizens and foreigners by way of precaution both in behalf of the interests of the Government and of private individuals, in no way changes or prejudices the citizenship of those who ask or receive it; therefore the foreigner who in time of war is required to ask a passport, and, in fact, employs it, does not lose thereby his character of foreigner nor contract any obligation.

Which information I give your excellency in virtue of the constitution and the laws of the state and officially, in order that your excellency may be enabled to use this note in such manner as your excellency may deem fit.

God keep your excellency.

M. JARAMILLO.

[Inclosure 2 in note of August 31, 1886.]

*Mr. Flores to Mr. Kelly, contractor of the Southern Railroad, Ecuador.*

LEGATION OF ECUADOR,  
*New York, June 26, 1886.*

MY DEAR MR. KELLY: Will you be so good as to answer me the following questions, authorizing me to make use of your answers?

- (1) Which is your nationality?
- (2) When you left Ecuador recently, did you have to provide yourself with a passport?
- (3) Do you consider that you relinquish your nationality by receiving a passport?

Very sincerely, yours,

A. FLORES.

*Mr. Kelly to Mr. Flores.*

VICTORIA HOTEL, *June 27, 1886.*

MY DEAR MR. FLORES: In reply to the three questions foregoing, I beg to say to the first that I am an English subject; to the second, that when I left Ecuador recently, like everybody else I had to provide myself with a passport from the governor of Guayaquil, without which the steamship company would not have sold me tickets; and to the third, that I have never considered my English nationality in any way endangered or made questionable by having an Ecuadorian passport in my possession.

Yours, very truly,

M. J. KELLY.

[Inclosure 3 in note of August 31, 1886.]

*Résumé of the evidence concerning Mr. Santos transmitted to the Ecuadorian Government by the attorney sent to Manabí to collect and examine the said evidence.*

The researches lately made in respect to the affair of Julio R. Santos produce the following evidence:



## COMPLICITY IN THE REVOLUTION OF NOVEMBER, 1884.

The trial held in the province of Manabi contains the record of all the revelations made respecting the various revolutionary movements which began in said province, and from it have been taken the copies which form Document A. From those copies it appears that Julio R. Santos was one of the principal revolutionary agents in Bahia, as witnesses of unimpeached credibility proved, it being evident that the nullity which has vitiated a portion of the trial has left more than ten uniform declarations on the same point of no effect.

These declarations are being made again, through the confirmation of them by the witnesses, and the copied document contains only the affidavits of those who have already sworn to them before a competent magistrate.

## LEGAL TRIAL AND FREEDOM OF DEFENSE.

The course pursued in the prosecution instituted against all the conspirators, both citizens and foreigners, as appears from the copies in the same Document A, is that laid down by the laws of Ecuador both in respect to the competence of the judge who issued the process and to all the formalities of the progress of the trial.

To that joint trial Julio R. Santos has been and is now being subjected, as is shown by the various papers which the copy contains, and as also his various petitions proved, on which decision has been duly made by the judge, respecting the right of defense accorded by the laws of Ecuador to every person under trial.

## DELAY IN THE JUDICIAL PROCEEDINGS.

As there were different revolutionary movements which burst forth in the province of Manabi, all having the same origin, four cases have been united in one. This circumstance, the very nature of the offense, and the number of the accused, which is over sixty, have been the cause of numerous delays in the progress of the trial; the principal of these being the lack of judges and functionaries free from legal impediment growing out of relationship, friendship, or enmity, or the relation of creditor or debtor, &c., with some of the accused, a difficulty easily appreciated where small localities are in question, in which all kinds of connections, especially those of the family, are generally extended and complicated.

Document A contains the record of the court, twelve pages, and the examination instituted by the secretary of the treasury, twenty-six pages, as conclusive proof of what is stated.

## IMPRISONMENT OF SANTOS.

Documents B and F, from page 7, contain the affidavits of the officers who captured Julio R. Santos, finding him with arms in his hands, conducting armed men, and munitions of war.

## GOOD TREATMENT OF SANTOS WHILE IN PRISON.

The proof of this fact appears from the investigation existing in Document C. By this it is seen that Julio R. Santos was treated in his prison with greater consideration than the other political prisoners for the same offense.

## SANTOS CONSIDERED AS A CITIZEN OF ECUADOR.

According to Don Julio R. Santos's own view and that of the Government of Ecuador he had resumed his citizenship.

Proof of the first is the fact that Santos accepted the public office of treasurer of the Cisandine road, for the discharge of the duties of which he offered the security which appears in Copy E; and proof of the second is the decision taken by the Government in 1881 that Santos should serve in the national guard—a decision whose copy forms Document D.

## ANIMUS MANENDI.

Proofs on this point are the affidavits of Document F, taken in Bahia, Julio R. Santos having been personally summoned, and from which appear against him his residence for many years in the Republic; his owning real property, cultivating, and improving the same, as if to use it for a long period of time; his participation in commercial business of long duration.

Such is in substance the value of the evidence collected by the undersigned in fulfillment of the commission intrusted to him by the supreme Government.

RAFL. MA. ARIZAGA.

GUAYAQUIL, April 15, 1886.

No. 139.

*Señor Flores to Mr. Bayard.*

[Translation.]

LEGATION OF ECUADOR, No. 120 MADISON AVENUE,  
*New York, October 5, 1886. (Received October 7.)*

MR. SECRETARY: In regard to the note which I had the honor to address to your excellency the 31st of August last, I thought proper to consult the governor of Guayaquil concerning the system of passports in force with us, and in reply the said officer tells me, under date of the 1st ultimo, as follows:

Since the month of November, 1884, the order has been established that without a proper passport from this Government no person, whether a foreigner or of Ecuadorian nationality, could leave the Republic in any direction, and this order up to the present time has not been revoked.

This I consider it my duty to make known to your excellency.  
 I avail myself, &c.

A. FLORES.

No. 140.

*Mr. Bayard to Mr. Flores.*

DEPARTMENT OF STATE,  
*Washington, December 21, 1886.*

SIR: Your notes of the 31st of August and 5th of October last, relative to the case of Mr. Julio R. Santos, have been received.

So far as the question of Mr. Santos's citizenship is concerned, the Department is not aware of the existence of any reasons for further discussion. The position of this Government was definitely stated in my note to you of the 1st June, 1885, in reply to your request for delay in the execution of the agreement for Mr. Santos's release. In that note I said:

I now understand you to ask a reasonable delay in the execution of that agreement, to enable you to possess expected documents before confirming the settlement we reached. I understand you to ask this that you may feel assured that you discharge your duty toward your own Government under your full powers in carrying that settlement into effect.

To such a reasonable delay I have no desire to interpose objection, and the less so as I am convinced that it can merely postpone for a few days, and not overturn the good understanding at which we have arrived.

Permit me, however, to say that it must be expressly understood that there is no implication, from my consent to this delay, that the decision of this Government as to its duty in the premises will be changed or opened for discussion. \* \* \* Your Government releasing Mr. Santos and, for its part, reserving the question of his citizenship, such reservation will naturally extend to and include any personal rights dependent on his citizenship. As I have already told you, no ulterior questions of this nature have been suggested except by yourself. \* \* \*

In replying to this note on the following day, you said:

As for the hope which your excellency expresses that the delay may not result in inducing me to annul my proposed settlement, I assume your excellency does me the justice to believe me incapable of such a proceeding.

Then, after detailing certain circumstances which might operate to delay Mr. Santos' release, you make this further statement:

I state what in my opinion may be the cause of the delay, for your excellency's satisfaction, but now without any desire to ask an extension of time. On the con-

trary, since your excellency reminds me of the grave responsibility which I assume in asking it, I beg to be permitted to respectfully withdraw that request. Other motives constrain me to this withdrawal, and especially, if I have correctly understood your excellency, if there be no room for discussion, and if it be useless to present such proofs as my Government may send me to offset those of Señor Santos. I shall abstain, therefore, from presenting any proofs whatever, and will confine myself to reporting what has occurred.

On the 6th of August, 1885, you officially informed me that the freedom of Mr. Santos had been proclaimed by the President of Ecuador on the 11th of the preceding month, and you then entered upon an elaborate discussion of the question of Mr. Santos's citizenship.

Upon that discussion I did not enter, because I did not perceive its utility or propriety. This Government is not now urging upon Ecuador any demands which depend upon the question of Mr. Santos's citizenship; and as, by the terms of settlement agreed upon by us for his release and embodied in the telegram sent by you to your Government on the 15th May, 1885, that question was expressly reserved, speculative discussion in respect of Mr. Santos's citizenship does not seem necessary to show that, while releasing Mr. Santos, Ecuador did not assent to this Government's conclusion as to his citizenship.

As to the telegram of the 15th of May, 1885, my recollection coincides with your own; and, although it is not material whether the phrase "reserving all question of citizenship" or "without touching the question of nationality" was employed I regret that by the publication of the correspondence it should have been made to appear, as the understanding of the Department, that the text originally agreed upon was the Spanish, containing the phrase "*sin tocar cuestion nacionalidad*," instead of the English containing the phrase "reserving all question of citizenship."

The English text was the original; and the phrase in the Spanish text, "*sin tocar cuestion nacionalidad*" (without touching the question of nationality), was your own translation of the expression "reserving all question of citizenship." I also concur with you in the recollection that the word "passport" in your first English draft of the telegram was stricken out at my suggestion, and the word "permission" inserted, making your telegram read: "Give permission to Santos, at my request, to leave for the United States by next steamer," instead of "Give passport," &c.

Your statement in this regard accords with my recollection, and entirely agrees with the position taken by this Department on the question of Mr. Santos's citizenship. The Government of Ecuador was, of course, at liberty to give Mr. Santos the evidence of such "permission" in whatever form and by whatever name the laws of that country prescribed.

Hence, I suggested the term "permission" in place of "passport," employed by you, which is generally understood to mean an identified safe-conduct granted by Governments only to their own citizens.

In reference to the omission of your note of the 15th of May, 1885, from the correspondence as printed, I may remind you that other communications were similarly omitted, because some were deemed confidential and others considered immaterial. Nothing, however, has been omitted which is essential to the full comprehension of the views of either Government.

Accept, &c.,

T. F. BAYARD.



## FRANCE.

No. 141.

*Mr. Bayard to Mr. McLane.*

No. 67.]

DEPARTMENT OF STATE,  
*Washington, January 13, 1886.*

SIR: I transmit to you herewith, for your information, a copy of a dispatch to this Department concerning the alleged proceedings of Lieutenant Aroux, commanding a gunboat of the French navy, in negotiating treaties with the chiefs of native tribes within Liberian territory.

You are desired to acquaint yourself with the former inquiries made at the time of the French attempt to control Kent Island, in the Manna River, and with the grounds on which our friendly intervention on behalf of Liberia was based. We exercise no protectorate over Liberia, but the circumstance that the Republic originated through the colonization of American citizens, and was established under the fostering sanction of this Government, gives us the right, as the next friend of Liberia, to aid her in preventing any encroachment of foreign powers on her territorial sovereignty, and in settling any dispute that may arise. The southeasterly boundary at the river San Pedro has never been questioned, and has the powerful sanction of general admission for many years. I will thank you, therefore, to ask the foreign office whether there is any foundation for the report that France, through its officers on the coast, has assumed to treat with Liberian tribes as independent; and you will endeavor to ascertain, if so, whether Lieutenant Aroux's so-called treaty is in disparagement of Liberia's sovereign rights in that territory.

I am, &amp;c.,

T. F. BAYARD.

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[Inclosure in No. 67.]

*Mr. Smyth to Mr. Bayard.*

No. 149.]

LEGATION OF THE UNITED STATES,  
MONROVIA, LIBERIA, *December 7, 1885.* (Received January 12, 1886.)

SIR: I have the honor respectfully to furnish you the following information: On the morning of the above date I was called upon by Mr. Secretary Barclay, and was informed by him that there was apprehension felt on the part of His Excellency the President, and also by himself, that the French had been tampering with the chiefs in the Liberian territory southeast of Cape Palmas, at a place which is about 70 or 100 miles distant from Cape Palmas, at Berriby, to the end of making a treaty with the Greboe native race in that locality.

The circumstances of the above information were these: The gunboat Gabès, commanded by Lieutenant P. Aroux, steamed into the Monrovia Roads on the 2d of December, 1885, and said commandant paid a visit of courtesy to the President, December 3, 1885. In the interview which the commandant had with the President, mention was made of the fact that on the voyage from Gaboon he, the commandant, had stopped at Berriby, and that he had landed, and by his further statement gave the President the impression that Berriby was considered by him (the commandant) as without Liberian possessions. To this erroneous impression His Excellency promptly and clearly stated that Berriby was a portion of Liberian territory, and defined the southeast boundary as extending to the river San Pedro. Subsequent to the departure of the Gabès for St. Vincent, Cape de Verde, information was received, through a subagent of the German firm of A. Woermann, resident here, that the commandant, P. Aroux, had made a treaty with the native chiefs of Berriby.

An attempt was made in 1879, by the influence of a Frenchman resident of Paris, to have his Government exercise a protectorate over Liberia, and in 1884 Kent Island, in the river Manna, was occupied by a French firm, and a lease was taken from a native subject of Liberia of a part of the land on the south bank of said river. As to the matter of a protectorate, on representations made by me to the Department, and inquiries made at the foreign office at Paris, as a sequence, by the Minister of the United States, there was a prompt disclaimer made by the foreign minister of any such desire or purpose on the part of his Government. As to the Kent Island affair, after I had advised your predecessor, the Hon. Mr. Secretary Frelinghuysen, concerning the matter, and the Government of Liberia had communicated the facts to the French Government, the Liberian Government was advised that the unauthorized act of lease by a French citizen of Liberian territory unlawfully would not be countenanced by France, and that Liberia had no cause to fear contention on the part of the French Government as to claim upon the territory in question.

Now, as to the present affair, in the light of European effort to possess African soil, and France particularly, it is judicious in Liberia that she advise our Government at once of apprehensions felt of French territorial encroachments; and I call attention to this matter at the instance of the Liberian secretary of state, and in keeping with instruction contained in your predecessor's No. 52, diplomatic series, dated Washington, October 9, 1884. In this connection I beg to state that the secretary of state also informed me that an act was to be passed at the present session of the Legislature authorizing the opening of a port of entry at San Pedro, and some intermediate point between there and Cape Palmas.

On account of this recent visit of the French commandant, the more recent report concerning his action, his secretiveness as to any conduct on his part other than an authorized (by the Liberian Government) visit to Berreiby, and the impossibility of communication with that portion of the coast by Government and hearing from the chiefs up to the time of this writing, there has been no verification of the report concerning a treaty.

As an indication of the possible accuracy of the above report of French encroachment, a review of the action of France in the rear of where Liberia now is, in the latter part of the eighteenth century (see supplement to my No. 52, diplomatic series, November 15, 1879), and subsequently with reference to Liberia, will tend to satisfy you, sir, in the absence of immediate, direct corroboration, that the information or report is not incredible, and seems to point to the possibility of history repeating itself with regard to France in the matter of Liberia.

I have, &c.,

J. H. SMYTH.

#### No. 142.

*Mr. McLane to Mr. Bayard.*

No. 155.]

LEGATION OF THE UNITED STATES,  
*Paris, February 3, 1886. (Received February 18.)*

SIR: I send herewith a copy and a translation of the treaty between France and Madagascar of the 17th of December, 1885, which has just been made public.

France assumes by this treaty a full and unqualified protectorate over the whole of the island of Madagascar; formerly she only claimed to protect the Sakalavas and the Antankares, of the northwest coast. The governmental powers are now divided between France and Madagascar. A French resident at Antananarivo will take charge of all the foreign relations, and will try according to French law all litigation between Frenchmen or between Frenchmen and foreigners. He will also try, with the assistance of a native judge, all litigation between Frenchmen and natives. Frenchmen will have the same right to reside, travel, and trade on the island as the natives enjoy.

The right to hold real estate, which was the origin of the dispute, is conceded in fact, if not in express terms, to Frenchmen, for they can lease property for any length of time, and upon the death of any leaseholder, the rest of the lease, together with any option of renewal, will

devolve on his heirs. Property occupied by a Frenchman cannot be entered without his consent or that of the resident.

Authority over local matters is left to the Queen, who shall continue, says the treaty, to direct the interior administration of the island. France, however, binds herself to assist the Queen in defending her state and to protect her subjects abroad. She undertakes, besides, to provide such military instructors, engineers, professors, and artisans and overseers as may be asked for, a clause which in due course of time will, if skillfully availed of, place the whole island under the control of France.

It is true that foreigners other than Frenchmen residing on the island are left to be dealt with by the local authorities, but as no foreign Government can communicate with the Malagasy court except through the French resident, and as this court is forbidden from taking any action involving questions of a foreign character, this restriction, if so considered, will not in the least hinder French influence or put any check upon her authority.

The queen is to pay 10,000,000 francs, not as a war indemnity, but in settlement of all French private claims and damages sustained by foreigners during the war.

I have, &c.,

ROBERT M. McLANE.

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[Inclosure in No. 155.—Translation.]

*Treaty with Madagascar concluded December 17, 1885, between the Government of the French Republic and the Government of Her Majesty the Queen of Madagascar.*

The Governments of the French Republic and of Her Majesty the Queen of Madagascar, wishing to prevent forever the renewal of the differences which have lately arisen, and desiring to strengthen their former friendly relations, have agreed to conclude a convention to this effect, and have named for plenipotentiaries to wit, Mr. Paul Emile Miot, rear-admiral commanding in chief the naval division of the Indian Ocean, and Mr. Salvator Patrimonio, minister plenipotentiary for the French Republic, and General Digby Willoughby, general officer commanding the Malagasy forces and minister plenipotentiary for the Government of Her Majesty the Queen of Madagascar, who, after having exchanged their full powers, found in good and due form, have agreed upon the following articles, subject to their ratification:

(1) The Government of the French Republic will represent Madagascar in all its foreign relations. The Malagasies abroad will be placed under the protection of France.

(2) A resident representing the Government of the Republic will control the foreign relations of Madagascar, without interfering in the internal administration of the country.

(3) He will reside at Antananarivo, with a military guard, and will be entitled to be received in private personal audience by the Queen.

(4) The Malagasy authorities under the Queen will not intervene in questions arising between French subjects or between French and foreign subjects. Actions at law between Frenchmen and Malagasies will be tried by the resident, assisted by a Malagasy judge.

(5) Frenchmen will live under French laws as regards the punishment of crimes and offenses committed in Madagascar.

(6) French subjects may freely reside, travel, and carry on trade throughout the Queen's dominions. They will be entitled to lease for undetermined periods or to take leases for long periods, renewable at the sole pleasure of the contracting parties, land, houses, shops, and all other descriptions of real property, and may freely engage and take into their service, on any footing, any Malagasy subject who may be un hindered by previous engagements. Leases and contracts with work-people will be certified in due form before the French resident and the magistrates of the country, and the strict executions of the provisions of such instruments will be guaranteed by the Government. At the death of a Frenchman who may have been the tenant of any landed or house property, his heirs will have the benefit of the remaining term of



the lease concluded by the deceased, with the power of renewing the same. Frenchmen will only be called upon for the land tax paid by the Malagasies.

No person shall have access to the property or enter the establishments or houses occupied by Frenchmen, or by any person in their service, except with the sanction of the French resident.

(7) The Queen expressly confirms the guarantees stipulated by the treaty of August 7, 1885, in favor of liberty of conscience and religious toleration.

(8) The Queen's Government undertakes to pay the sum of 10,000,000 francs, to be applied in the settlement of French claims liquidated before the last war, and in compensation for the damages suffered by foreign subjects by reason of that war. The investigation and settlement of these indemnities is left to the French Government.

(9) Until payment in full of the above-mentioned sum French troops will occupy Tamatave.

(10) No claim will be admitted in connection with the measures taken up to the present by the French military authorities.

(11) The Government of the French Republic undertakes to lend assistance to the Queen in the defense of her states.

(12) The Queen will continue as heretofore to preside over the internal administration of the whole island.

(13) In consideration of these engagements, the French Republic agrees to desist from any renewal of its demand for a war indemnity.

(14) The Government of the French Republic, in order to aid the advance of the Malagasy Government and people on the path of civilization and progress, undertakes to place at the Queen's disposal the military instructors, engineers, professors, and artisan foremen whose services may be applied for.

(15) The Queen expressly undertakes to treat with good will the Sakalavas and Antankares, agreeably to the information on this subject furnished by the French Government. The Government of the Republic reserves to itself the right of occupying the Bay of Diego Suarez, and of creating there the establishments that it may consider desirable.

(16) The President of the French Republic and the Queen grant a general and complete amnesty, accompanied by the raising of all sequestrations placed upon their property, to their respective subjects, who prior to the conclusion of peace compromised themselves by serving the other contracting party.

(17) The actually existing treaties and conventions between the French Republic and the Queen are expressly confirmed in so far as they may not be contrary to stipulations of the present treaty.

(18) The present treaty has been drawn up in French and Malagasy, the two versions having exactly the same sense, so that the two texts may be legally cited in every respect.

(19) The present treaty shall be ratified within a period of three months.

Made in duplicate on board the *Nalida*, in the harbor of Tamatave, December 17, 1885.

The rear-admiral commanding in chief the naval division of the Indian Ocean,  
E. MIOT.

The minister plenipotentiary of the French Republic,

S. PATRIMONIO.

The minister plenipotentiary of Her Majesty the Queen of Madagascar, general officer commanding the Malagasy forces,

DIGBY WILLOUGHBY.

# No. 143.

*Mr. Vignaud to Mr. Bayard.*

No. 234.]

LEGATION OF THE UNITED STATES,  
*Paris, June 15, 1886. (Received June 28.)*

SIR: The Department has been made aware that according to the French law of December 16, 1874, a man born in France of a father who himself was born in France, but who became by naturalization a foreigner, is considered a French citizen unless, before he reaches the age

of twenty-two, he establishes that he retains his original nationality, that is to say, the acquired nationality of his father.

Article 1 of this law of 1874, a copy and translation of which are herewith inclosed, says that the party thus claiming foreign citizenship must prove that he has maintained his original nationality by "an attestation in due form of his Government"; but the circular issued by the French mayors to the sons and grandsons of foreigners born in France—a printed copy of which is also inclosed—says that each one of them has to produce a certificate of the diplomatic agent of the country of which he claims to be a citizen, stating that he has not lost his original nationality.

Mr. Victor Labroue, availing himself of the law of February 10, 1855 (Rev. Stat., sec. 1993), which states that "all children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States," applies to this legation for the above-mentioned "attestation" or certificate.

The circumstances of this case are as follows:

Victor Labroue was born at Bordeaux in September, 1865. His father, Ernest Labroue, born also in France in 1829, emigrated to the United States in 1853. In 1856 he settled in the State of Minnesota, where in 1862 he was married. On the 15th of September, 1863, he was duly naturalized in the district court of Dodge County, and in the same year he was appointed by the governor a lieutenant in the Fifteenth Regiment of the State Militia. At the end of 1864 he was called back to France and took up his residence at Bordeaux.

Victor Labroue, who has taken the oath of allegiance before our consul at Bordeaux, states that his domicile is Ashland, Minn., where his relatives still reside, that he has always considered himself an American citizen and has never taken any step which might involve the forfeiture of his nationality, and that it is his intention at some future time to return to his home at Ashland. \* \* \*

Considering that in a case almost similar, the case of Verdelet, Mr. Frelinghuysen, in his dispatch No. 377, November 9, 1883, refused to grant the certificate applied for, I have declined to comply with Mr. Labroue's request, and beg now to be informed if, under the circumstances as stated, this legation can do so. If the certificate applied for by Mr. Labroue is refused, he will be considered by the French authorities as a French citizen and treated as such.

I have, &c.,

HENRY VIGNAUD.

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[Inclosure in No. 234.—Translation.]

*Law of December 16, 1874.*

**ARTICLE 1.** Article 1 of the law of February 7, 1851, is amended as follows:

Any individual born in France of a foreigner who himself was born there is French, unless, in the year following the time of his majority, as fixed by French rule, he claims his foreign nationality by a declaration made either before the municipal authorities of the place of his birth or before the diplomatic or consular agents of France abroad, and establishes that he has maintained his original nationality by an attestation in due form of his Government, which will remain affixed to the declaration.

*Mr. Bayard to Mr. Vignaud.*

No. 137.]

DEPARTMENT OF STATE,  
Washington, July 2, 1886.

SIR: I have received your No. 234, of the 15th ultimo, transmitting a copy of the French law of December 16, 1874, and asking for instruction in regard to the case of Victor Labroue.

Victor Labrone, according to the statement made in your dispatch, was born at Bordeaux, France, in September, 1865. His father, Ernest Labroue, was born in France in 1829, emigrated to the United States in 1853, was married in Minnesota in 1862, was naturalized in that State in 1863, and in 1864 returned to France, where he took up his residence in Bordeaux, at which place he has since then remained. You say nothing as to any intention on his part to return to the United States, and under the circumstances, as it is likely that the view most favorable to the son's application would be stated, we may infer that he has no such intention.

The son Victor, you state, has taken the oath of allegiance before our consul at Bordeaux, declares that his domicile is Ashland, Minn., that he has always considered himself an American citizen, and has never taken any step which might involve the forfeiture of his nationality, and that it is his intention at some future time to return to his home at Ashland. He has, however, never been in the United States.

The question then arises, is he a citizen under section 1993, Revised Statutes?

This section is as follows:

SEC. 1993. All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were, or may be at the time of their birth, citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

In an opinion given by Mr. Hoar, Attorney-General, on June 12, 1869 (13 Op. Att'y-Gen., 89), on a state of facts similar to that now before me, we have the following:

That fact [that the father of children born abroad was at their birth a citizen of the United States] being established, the children (under and by virtue of the act of Congress of February 10, 1855, chap. 71, 10 Stat., 604), are deemed and considered, and are thereby declared to be, citizens of the United States, "provided, however, that the rights of citizenship shall not descend to persons whose fathers never resided in the United States." If, therefore, the fathers of the applicants at the time of their birth were citizens of the United States, and had at some time resided within the United States, it is my opinion that the applicants are citizens of the United States, under the provisions of the statute, and entitled to all the privileges of citizenship which it is in the power of the United States Government to confer. Within the sovereignty and jurisdiction of this nation they are undoubtedly entitled to all the privileges of citizens.

In regard to the other branch of your inquiry, whether they are entitled, as such, to passports, my answer must be more qualified. I understand a passport to be a certificate of citizenship, and that a person receiving it is certified to be entitled to such protection as the Government can give to its citizens in foreign countries. But while the United States may by law fix or declare the conditions constituting citizens of the country within its own territorial jurisdiction, and may confer the rights of American citizens everywhere upon persons who are not rightfully subject to the authority of any foreign country or Government, it is clear that the United States cannot, by undertaking to confer the rights of citizenship upon the subjects of a foreign nation who have not come within our territory, interfere with the just rights of such nation to the government and control of its own subjects. If, therefore, by the laws of the country of their birth, children of American citizens born in that country are subjects of its Government, I do not think that it is competent to the United States, by any



legislation, to interfere with that relation, or, by undertaking to extend to them the rights of citizens of this country, to interfere with the allegiance which they may owe to the country of their birth while they continue within its territory, or to change the relation to other foreign nations which by reason of their birth may at any time exist. The rule of the common law I understand to be that a "person born in a strange country, under the obedience of a strange prince or country, is an alien" (Co. Litt., 1286), and that every person owes allegiance to the country of his birth. I have no means of ascertaining what the law of Caracooa may be in this respect. But if the applicants can receive any passport from your Department, it would seem that it must be a qualified one, which should state that, although they were citizens of the United States, they were only so in the qualified sense which I have indicated, reserving such rights, obligations, and duties as might attach to them under the laws of the country in which they live and in which they were born, over which the United States could have no control while their domicile continued, nor until they should come within our territorial jurisdiction.

The conclusions above stated, which I adopt, were affirmed explicitly by Mr. Frelinghuysen, in instructions to Mr. Kasson, January 15, 1885 (Foreign Relations, Germany, 1885), and impliedly by Mr. Frelinghuysen in instructions to Mr. Morton, November 9, 1883 (Foreign Relations, France).

The first question that arises is, was Ernest Labroue, the father, a citizen of the United States at the time of the birth of Victor? If Ernest Labroue had at that time abandoned his citizenship in this country, then his son can make no claim to such citizenship. At present, as there is no proof of such abandonment at the time in question, I hold the case of the son to be covered by the Revised Statutes, section 1993, above quoted, reserving the question, however, for revision on a fuller presentation of the facts.

Supposing then the son's case to fall within the statute, can he, now residing in France (where he has always resided), claim the privileges of the statute? By the law of nations, apart from any municipal legislation, he would be entitled, when of full age, to elect which of the two allegiances he will accept, and with the law of nations in this respect coincides, according to your dispatch, the municipal law of France. But this election cannot be made by Victor Labroue until he arrives at full age in September, 1886, and the election, to be operative, must not only be formally and solemnly declared, but must be followed by his coming to and taking up his abode as soon as is practicable in the United States. Should he remain voluntarily in France after the period when the French law as well as the law of nations requires him to make his election, this may properly be regarded as an abandonment of American and an acceptance of French allegiance.

I am, &c.,

T. F. BAYARD.

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No. 145.

*Mr. Bayard to Mr. McLane.*

No. 142.]

DEPARTMENT OF STATE,  
Washington, July 12, 1886.

SIR: With reference to my instruction No. 67, of the 13th of January last, concerning the alleged proceedings of Lieutenant Aroux, commanding a gunboat of the French navy in negotiating treaties with the chiefs of native tribes within Liberian territory, I now inclose herewith for your information a copy of a dispatch from our minister at Monrovia in relation to the subject. As this Government is deeply in-

interested in preserving the territorial integrity of Liberia, it has learned with much concern that French officers have recently been carrying on intrigues with tribes within the long established and universally recognized boundaries of the Liberian Republic, and treating with said tribes as independent.

Confirming my above-mentioned instructions of the 13th of January last, I have to request you to avail yourself of an early opportunity to bring the subject to the attention of the minister of foreign affairs, with a view to ascertain whether or not the proceedings of Lieutenant Aroux and Captain Dumont are sanctioned by the French Government.

I am, &c.,

T. F. BAYARD.

[Inclosure 1 in No. 142.]

*Mr. Hopkins to Mr. Bayard.*

No. 12.]

LEGATION OF THE UNITED STATES,  
*Monrovia, March 18, 1886. (Received July 7.)*

SIR: I have the honor to acknowledge the receipt of your dispatch No. 3, and also your dispatch No. 4, inclosing for my information a copy of a letter of an instruction recently addressed by you to the United States minister at Paris, directing him to make discreet inquiry upon the subject with reference to the action of the French commandant, P. Aroux, respecting a part of the southeast boundary of Liberia.

I now have the honor to inform you that the French man-of-war *Voltigeur*, E. Dumont commandant, entered Mesurado Roads on the 25th. \* \* \*

I would also call the attention of the Department of State to the fact that when Liberia became an independent state, the Colonization Society reserved the absolute control of every other square mile of this Republic for emigrants from the United States. So one-half of this Republic belongs to American citizens.

I have, &c.,

MOSES A. HOPKINS.

No. 146.

*Mr. Vignaud to Mr. Bayard.*

No. 267.]

LEGATION OF THE UNITED STATES,  
*Paris, August 23, 1886. (Received September 6.)*

SIR: Referring to your instructions No. 67, of January 13, and No. 142, of July 12, concerning the alleged proceedings of two officers of the French navy in negotiating and communicating with certain native tribes within the Liberian territory as independent, I have the honor to send herewith copy of the correspondence thereon which took place between this legation and the French foreign office, viz:

- (1) Mr. McLane to M. de Freycinet (February 3, 1886).
- (2) Mr. Vignaud to the same (August 6, 1886).
- (3) M. de Freycinet to Mr. Vignaud (August 18, 1886), with a translation of the same.

The interest the Department takes in this matter is well understood by Mr. McLane and myself, and the legation will lose no opportunity of ascertaining if really France has any design upon a part of Liberia.

I have, &c.,

HENRY VIGNAUD.

[Inclosure 1 in No. 267.]

*Mr. McLane to M. de Freycinet.*

LEGATION OF THE UNITED STATES.

*Paris, February 3, 1886.*

SIR: Your excellency is certainly aware of the peculiar interest the United States take in the independence and prosperity of the Republic of Liberia, on the west coast of Africa. This interest is more of a moral character than of a political one. We exercise no protectorate over Liberia, but the circumstance that this Republic originated through the colonization of American citizens, and was established under the fostering sanction of the United States, entitles it to the sympathy of our people, to their encouragement, and, when practicable, to their protection. As the next friend of Liberia, my Government conceives that it has the obligation to aid her when she needs support, and that it can do so properly without giving offense to any foreign power.

This legation, acting under instructions from the United States Secretary of State, has ventured to lay before your excellency's predecessors facts or reports which had given occasion to the supposition that France entertained the idea of extending her political action over Liberia or a part of her territory.

Appreciating the motives which had prompted these observations, Mr. Waddington, in 1879, and Mr. Jules Ferry, in 1884, disclaimed that France had any design upon the territory which Liberia could claim, and my Government has not the slightest reason to suppose that such is not the case.

Certain recent proceedings of Commandant Aroux, of the French gunboat *Gabès*, however, have led the Liberian Government to fear that France might now have other views.

It seems that this officer has made a treaty with the native chiefs of certain Liberian tribes—the Greboe, at Berreby, in the Liberian territory southeast of Cape Palmas. The nature and character of this alleged treaty is not known, but the fact that it was entered upon with tribes which cannot be considered as independent from Liberia, whose southeastern boundaries extend to the river San Pedro, has very naturally alarmed the Liberian President, who called the attention of my Government to the fact.

In the same friendly spirit which has dictated the previous interposition of my Government in this matter, I am requested by Mr. Bayard to ask whether there is any foundation for the report that France, through its officers on the coast, has assumed to treat with Liberian tribes as independent, and to ascertain, if so, if this treaty is in disparagement of Liberian sovereign rights.

Trusting that your excellency will not misconstrue the character of this request, and, that in view of quieting the natural apprehensions caused by the report above mentioned, it will be found agreeable to furnish the information applied for,

I avail, &amp;c.,

ROBERT M. McLANE.

[Inclosure 2 in No. 267.]

*Mr. Vignaud to Mr. de Freycinet.*

LEGATION OF THE UNITED STATES,

*Paris, August 6, 1886.*

SIR: On the 3d of February of the current year, Mr. McLane had the honor of addressing a note to your excellency recalling the circumstances which entitle the Republic of Liberia to the sympathy and protection of the United States, and also the fact that the legation had previously laid before your predecessors reports which led to the belief that France entertained the idea of extending her political action over the whole or a part of the territory of that Republic.

Mr. McLane then stated that, although Mr. Waddington in 1879, and Mr. Jules Ferry in 1884, had disclaimed any design upon any territory which Liberia could claim, certain proceedings of Commandant Aroux, or Arnoux, of the French gunboat *Gabès*, had led the Liberian Government to fear that France might now have other views, and that upon its representations at Washington, he was directed to ask in a friendly spirit, whether there was any foundation in the reports that France, through its officers on the coast, had assumed to treat with Liberian tribes as independent.



Since the above dispatch was written, the Liberian Government has given to the United States representative at Monrovia information which shows that another officer of the French navy, Capt. E. Dumont, of the war steamer *Voltigeur*, had also been engaged in negotiating with tribes under the jurisdiction of Liberia.

It appears from a statement made by Captain Dumont himself to the President of Liberia, that his ship had stopped at Berreby on her way up the coast, and that he had communicated with the people of that place by order of his Government, who had directed him to protect them. On being informed by the President that Berreby is within the Liberian territory, Captain Dumont said that the French Government had had some treaty or agreement with the people of Berreby ever since 1833, before the establishment of the Republic. He was then shown a French official map of West Africa, issued by authority in 1882, and furnished to Mr. Carrance, the Liberian consul-general at Paris, for transmission to Monrovia, on which the San Pedro River is described as the southeastern boundary of Liberia. The captain examined closely this map, took notes, and said he would communicate with his Government with reference to the matter.

The language of Captain Dumont, who expatiated on the benefit that would accrue to Liberia if she would avail herself of French protection, and his action following so closely the mission attributed to Lieutenant Arnoux, have given to the Monrovia Government reason to apprehend that the French Republic might have now other views than those expressed by Mr. Waddington and Mr. Jules Ferry. As for my own Government, which takes a deep interest in the preservation of the territorial integrity of Liberia, it has learned with much concern that French officers have been treating with, and considering as independent, tribes within the long and universally recognized boundaries of the Liberian Republic, and I am directed to bring the subject to the attention of your excellency with a view of ascertaining whether or not the proceedings of Lieutenant Arnoux and Captain Dumont are sanctioned by the French Government.

For the spirit in which this inquiry is made I venture to refer your excellency to the dispatch of Mr. McLane, above mentioned, to which no answer has yet been made.

I avail, &c.,

HENRY VIGNAUD,  
*Chargé, &c.*

[Inclosure 3 in No. 267.—Translation.]

*Mr. de Freycinet to Mr. Vignaud.*

MONSIEUR SOUS VAUDREY, August 18, 1886.

SIR: In consequence of information communicated to the Cabinet at Washington by the Government of Liberia, the representative of the United States at Paris has been charged to inquire of us as to the value it would be deemed proper to attach to certain incidents which had marked the passage of two of our cruisers at the Berreby on the west coast of Africa.

We have been directly informed of the same facts by the interested Government, and it has not been difficult for us to convince it, through the intermediary of its representative in France, that the facts signaled to us had not the character attributed to them by rumors too easily credited. We have also deemed it necessary, on this occasion, to recall to the Liberian Government the ties, already old, which unite to France the populations of Grand and Petit Berreby, in virtue of a treaty signed with us by their chief February 4, 1868, and which was made public.

In view of the interest which the Cabinet at Washington appeared to attach to be advised of the result of the initiative taken near us by the Republic of Liberia, I had taken care to make known to our chargé d'affaires at Washington the sense in which the reply to the Government of Monrovia had been made. I have reason to think, at all events, that the indications which precede will satisfy the desire manifested by the Government of the United States.

Receive, &c.,

C. DE FREYCINET.

CORRESPONDENCE WITH THE LEGATION OF FRANCE AT  
WASHINGTON.

No. 147.

*Mr. Roustan to Mr. Bayard.*

[Translation.]

LEGATION OF THE FRENCH REPUBLIC  
IN THE UNITED STATES,  
*Washington, April 28, 1886. (Received April 29.)*

SIR: The official journal of the Republic has just published a notice informing the public with regard to the time allowed to persons having claims on account of damages suffered during the recent conflict between the French Government and the Hova Government, for the presentation of the same, together with the documentary evidence in support thereof. I herewith transmit to you the text of this notice, which I have just received from my Government.

Be pleased to accept, &amp;c.,

TH. ROUSTAN.

[Inclosure in note of April 28, 1886.]

*Notice to persons having claims on account of damages suffered in Madagascar during the recent conflict between the French Government and the Hova Government.*

According to Article VIII of the treaty concluded December 17, 1885, between the Government of the French Republic and the Hova Government, the Government of Her Majesty the Queen of Madagascar has agreed to pay 10,000,000 francs, to be applied to the settlement of French claims that were liquidated previously to the conflict between the two parties, and likewise to the payment of all damages sustained by private individuals of all nationalities owing to said conflict. The examination and payment of these indemnities will devolve upon the French Government.

Persons having claims on account of the damages above mentioned, are hereby notified that they must address said claims, with the documentary evidence in support thereof, either to the minister of foreign affairs at Paris, before the 15th of May, or to the minister resident of France at Tamatave, before the 15th of July next.

PARIS, *March 18, 1886.*

No. 148.

*Mr. Bayard to Mr. Roustan.*DEPARTMENT OF STATE,  
*Washington, May 10, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, inclosing a copy of a notice published by the Government of France to the effect that persons having claims on account of damages suffered during the recent conflict between the French Government and the Hova Government should present the same with the documentary evidence in support thereof.

Accept, sir, &amp;c.,

T. F. BAYARD.

## GERMANY.

No. 149.

*Mr. Pendleton to Mr. Bayard.*

No. 110.]

LEGATION OF THE UNITED STATES,  
*Berlin, November 16, 1885. (Received November 30.)*

SIR: I send herewith report and translation of a speech made by Count Kalnoky, the Austrian premier, in the Austrian Chamber, as the report appears in the Nord Preussische Zeitung of this city, and another report on the same speech taken from the London Times.

Count Kalnoky admits as beyond controversy the right of Germany under the laws of nations to refuse sojourn to foreigners with or without cause according to its own will, and this under a very stringent exercise of that right against Austrian subjects.

I have, &amp;c.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 110.—Translation.]

*Translation of the extract from the Nord Preussische Zeitung.*

VIENNA, Tuesday, November 10.

In the budget committee of the Austrian delegation, Count Kalnoky stated, on the interpolation of Czerkowski in reference to the expulsion from Prussia, that according to the authentic information the measure had not been executed throughout the whole extent of the Prussian state. Thirty-one reclamations only had reached the Austrian embassy, the most numerous expulsions, one hundred and fifty to two hundred, in reference to which important modifications had been secured, had taken place in Breslau. The minister gave them the data concerning the Russian subjects arriving in Crakow, who numbered two hundred and thirty-eight families, with eight hundred and seventy-three persons, whilst in all twenty-nine single Austrians and thirty Austrian families have arrived in Galicia; the majority of those expelled were Galician Israelites. In reference to the right of expulsion, the minister declared there existed an incontrovertible principle, that it was conceded to each state, according to its own will to permit or refuse sojourn to foreigners. No right of sojourn could be inferred from commercial treaties. The Prussian Government declared that it was constrained on strong grounds of domestic policy to secure itself against immigration out of Russian Poland and Galicia, in order to avoid a derangement of existing conditions as to language and religion. He (the minister) had on this account limited himself to attempt to secure ameliorations and considerate action, and in this he had found a very responsive reception on the part of the Prussian Government. He would in the future use his influence in Prussia to the utmost in the interest of the Austrian subjects.

[Inclosure 2 in No. 110.]

*Extract from the London Times of November 11.*

The London Times of November 11 contains the following report of the same speech by Count Kalnoky.

In the Austrian delegation to-day Count Kalnoky answered an interpolation about the expulsion of Poles from Prussia. He said that only a small minority of the persons expelled were Austrian subjects; up to the middle of October seven hundred exiles had arrived at Crakow, and of these only seven were Austrians. At Lemberg over one thousand refugees had been received, but there were only thirty Austrian families and twenty-nine unmarried Austrians. The minister said most of the exiles were Jews, and added that the Prussian Government had assured the Cabinet of



Vienna that the utmost indulgence would be exercised towards Austrian subjects liable to expulsion.

"For the rest," said Count Kalnoky, "we have endeavored to find a legal ground for protest against these expulsions, but have found none. Every state is free to deal with foreigners according to its own municipal laws, and treaties of commerce do not in any way curtail this liberty. We are sorry for these expulsions, but cannot see that the Prussian Government has in any way violated international obligations."

These explanations excited the indignation of the Polish delegates, two of whom declared that the minister had produced misleading statistics. They maintained that a great number of Austrian subjects had been expelled since the middle of October, and they announced their intention of recurring to the subject. The German Liberal delegates, on the contrary, declared Count Kalnoky's explanations to be entirely satisfactory.

### No. 150.

*Mr. Pendleton to Mr. Bayard*

No. 114.]

LEGATION OF THE UNITED STATES,  
*Berlin, November 16, 1885. (Received November 30.)*

SIR: I inclose herewith an article, with translation, from the *Staatsburger Zeitung*, of this city, of the 15th instant.

It has no special significance except as showing the views taken by very many Germans of the power of expulsion, and its reasonable exercise in the given cases.

It is hardly necessary to say that the correspondent speaks for himself alone, and that I am responsible for nothing except the statement of the number of cases in the neighborhood of Föhr, in which my intervention was at that time sought.

Inclosed herewith I also transmit an article, with translation, from the *Berlin Preussische Zeitung* of the 13th instant.

I am, &c.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 114.—Translation.]

*Extract from the Staatsburger Zeitung of Sunday, November 15.*

In relation to the expulsion of German-American citizens, the Berlin correspondent of the *Breslau Morning Zeitung*, who has spent some years in the United States, writes the following:

According to information from the island Föhr, fifteen German-Americans have suddenly received the order to leave. This news was all the more calculated to excite great uneasiness among the ten thousand German-Americans who again live in Germany, because they see the numerous expulsions of the subjects of other nationalities. In order to come to the truth of the matter I visited the American minister, Mr. Pendleton, and asked for information. Whilst the minister declared that he did not know the number of notices of expulsion, he said also that his intervention had been sought in four cases only; that is, in other words, that notices have in fact been given in four cases only, for never has a notice of expulsion been given to an American without his claiming the intervention of the minister, and that coincides with my information from other sources. With this statement vanishes also the exaggeration of the report, for these four cases are announced not from Föhr alone, but from the neighborhood of Föhr. From the islands and the coasts young men can easily emigrate to America. It is very possible that these four men have returned at the same time and attract some attention. In any case these events in the north of Germany have been repeated nowhere else. And it can be said in the most certain manner that here is no question of a new system; but that a fact which has happened occasionally for years has attracted special attention because of the time at which it happened, and has been immoderately exaggerated. The new American minister, even

in the short time he has been in Berlin, has experienced, as his predecessors, Bancroft, Kasson, Taylor, Sargent, &c., were accustomed to say, that the German Government shows no disposition to be especially hard on German-Americans. Questions usually arise in relation to those who have not performed their military duty. Political suspects must expect to be treated more sharply.

Young German-Americans are usually given the choice, either to return to America or to perform the duties here of a German subject, if they draw special attention to themselves. The so-called Bancroft treaty, which regulates this subject, provides that the German who has become an American citizen and then returns to Germany, shall be considered an American citizen for two years, but afterwards shall be held to be a German subject again. This provision, clear as it seems to be, is subject to question, and has given rise to differences of opinion as to its meaning. Whilst Germany claims that the native German who acquires American naturalization becomes again a German after two years, America asserts that even after the lapse of two years there is needed some especial indication of his surrender of his American citizenship, and out of this spring up many differences. But they have always been in some way reconciled. That a young German, who shortly before he is required to enter the army, leaves Germany, and returns immediately after the lapse of five years, which are necessary for American naturalization, to snap his fingers in the face of the Government, should be held either to perform his military duty here or to return to America, even the American papers find entirely right. They are not mild in their judgment over those who wish to enjoy the rights of citizenship in two nations and to perform the duties of citizenship in neither. They have no sympathy with those of whom they with right declare that they would be just as ready to claim German protection if it would avail to screen them from the performance of a duty to the United States. The four cases on the island Föhr are not distinguishable from those described above. Up to this time nothing has been determined as to them.

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[Inclosure 2 in No. 114.—Translation.]

*Extract from the Berlin Preussische Zeitung of November 13, 1885.*

#### THE SETTLEMENT OF FOREIGNERS.

In North Schleswig, an old ordinance against the settlement of foreigners has been again enforced. The landrath of the district Hargesleben has given notice that the decree of the 5th November, 1841, is still in force, according to which no foreigner can settle in any circuit of the district without official sanction, or even take up a temporary residence in any circuit without permission.

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#### No. 151.

*Mr. Pendleton to Mr. Bayard.*

No. 142.]

LEGATION OF THE UNITED STATES,  
Berlin, December 25, 1885. (Received January 9, 1886.)

SIR: On the evening of the 23d instant I received a note from the imperial foreign office in reply to my several notes of intervention in behalf of certain American citizens, sojourning temporarily in the island of Föhr, in Schleswig-Holstein, who had been notified by the authorities that they must leave the country within very short periods as stated in my dispatches Nos 108, 130, and 133.

Their names are Simon Meinert Boysen, Hans Peter Jessen, Peter Cornelius Andresen, Meinert Hinrich Riewerts, Ingwer Georg Jappen, Ocke Edward Nickelsen, Constantin Heinrich Edward Rohlffs, Fred-erick (H. N.) Rohlffs, Peter Jepsen.

Within a few hours and by the same messenger, I received the *note verbale* of same date in relation to the departure of Peter Jepsen, and on

the following morning the note dated the 24th instant, in relation to the case of Hark Ocke Nickelsen for whom I had also intervened.

I thought it right to protest immediately against these adverse decisions and to set forth briefly some considerations which seemed pertinent to their review, before the orders of expulsion should be executed, without awaiting your instructions, and accordingly I sent yesterday to the foreign office my note of that date.

As I desire to lay these papers before you at the earliest moment, I send to day copies and translations of the three notes from the foreign office and a copy of my note in reply, without the delay necessary for the preparation of copies of my several notes to the foreign office, which contain full statements of the cases to which they refer. These shall follow as soon as possible.

I have, &c.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 142.—Translation.]

*Count Bismarck to Mr. Pendleton.*

BERLIN, December 21, 1885.

In the course of the past month the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Pendleton has, in a series of cases, intervened in behalf of persons who, after they had become naturalized in the United States, have returned to their native province, Schleswig-Holstein, and have received notice from the authorities there to leave the country within a certain period.

The undersigned has not failed, after receiving the several notes in the cases, to place himself in communication with the appropriate royal Prussian authorities, and he now has the honor to communicate to Mr. Pendleton, as the result of the investigation instituted in the various cases in question, the following:

(1) Simon Meinert Boysen, mentioned in the note of the envoy, dated the 4th ultimo, foreign office, 115, emigrated in the year 1863, at the age of sixteen years, to the United States, with a passport, but without having been discharged from Prussian allegiance; in the year 1870, he spent from two to three months on a visit on the island of Föhr, and returned there with five children in September last. He is at the present time still within the age of liability to military duty, nevertheless the appropriate royal Prussian authority considers it admissible, in view of the other circumstances of the case, to permit to Boysen, in conformity with his wish, a further sojourn in his native place, until the spring of the coming year.

To the following persons it has not been found possible to accord the same indulgence:

- (2) Meinert Hinrich Riewerts (note of the 11th ultimo, foreign office, No. 120).
- (3) Ocke Edward Nickelsen (note of the 11th ultimo, foreign office, No. 122).
- (4) Ingwer Georg Jappen (note of the 11th ultimo, foreign office, No. 121).
- (5) Peter Cornelius Andresen (note of the 11th ultimo, foreign office, No. 119).
- (6) Peter Jepsen (note of the 23d ultimo, foreign office, No. 129).

A short time before the attainment of the age of military duty, which begins with the completed seventeenth year of life, all those persons sought their discharge from Prussian nationality, and also received the same, as such discharge cannot lawfully, in time of peace, be refused to persons who have not yet reached the age of military liability.

At the time their discharge was applied for Riewerts was sixteen years and eight months old; Nickelsen, sixteen years and four months; Jappen, sixteen years and seven months; Andresen, sixteen years and eight months, and Jepsen, sixteen years and eleven months. The assumption seems, therefore, well founded that the persons in question sought discharge from their native allegiance and emigrated to the United States only for the purpose of withdrawing themselves from the performance of military duty in Germany.

This same purpose must be assumed in the cases of—

- (7) Hans Peter Jessen (note of the 9th ultimo, foreign office, No. 116).
- (8) Heinrich Friedrich Nikolaus Rohlfis (note of the 13th ultimo, foreign office, No. 124); and
- (9) Constantin Heinrich Edward Rohlfis (note of the 13th ultimo, foreign office, No. 123).



These three persons emigrated to the United States after attaining the military age without permission and without having responded to the duty of presenting themselves for military service. Hans Peter Jessen, mentioned under No. 7, went to America in 1873 and returned to his native place at as early a period as 1878, equipped with an American citizen paper. After a sojourn there of almost two years, and a short time before the termination of the period designated in Article IV of the treaty regulating nationality, of February 22, 1868, he again left Germany, going to Denmark, where he has since carried on a mill business. He is manifestly far from intending to return to the United States.

The two Rohlfs returned to their native place in September last, after a sojourn in the United States of about six years. All of the persons mentioned under Nos. 2 to 9 have now been residing in their native place since September last. They have, therefore, had sufficient time in which to visit their relations and regulate such private matters as may have required their attention. Should a further sojourn, and one for an indefinite period, such as they desire, be permitted them, a furtherance would thereby be afforded to the purposes of those persons manifestly aiming at evasion of the performance of military duty, which does not appear to be in accord with the interests of the state and the public order.

The orders of expulsion issued against Riewerts, Nickelsen, Jappen, Andresen, Jepsen, Jessen, and the two Rohlfs, which have in the mean time remained unexecuted, in consideration of the intervention of the envoy, will, therefore, now have to be carried out.

While permitting himself to hope that the considerations upon which this decision is based will find an appreciation corresponding with the facts on the part of the envoy of the United States, the undersigned does not fail to return herewith the documents received with the notes above referred to.

The undersigned avails, &c.

H. v. BISMARCK.

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[Inclosure 2 in No. 142.—Translation.]

*Foreign office to legation.*

FOREIGN OFFICE—NOTE VERBALE.

The foreign office has the honor, recurring to its note of the 21st instant, concerning the expulsion of the American citizens Simon Meinert Boysen and his associates from Prussia, to inform the legation of the United States of America that, pursuant to a more recent communication from the appropriate royal Prussian authority, Peter Jepsen, from Schottburg, designated under No. 6 in the note referred to, has left the territory of Prussia at as early a date as the 30th ultimo.

BERLIN, December 30, 1885.

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[Inclosure 3 in 142.—Translation.]

*Count Bismarck to Mr. Pendleton.*

FOREIGN OFFICE, BERLIN, December 23, 1885.

The undersigned has the honor, while returning the inclosures of the note of November 28 last, foreign office, No. 130, to inform the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. George H. Pendleton, that the application relating to the withdrawal of the decree of expulsion against Hark Ocke Nickelsen, sojourning at present at his native place, Toffum on Föhr, has been subjected to a close investigation.

The result of this investigation does not permit the existence of a doubt that the same views apply to him which were expressed in the note of the undersigned of the 21st instant concerning the persons designated in the same under Nos. 2 to 6.

The said Nickelsen, shortly before the attainment of the military age, received, upon his request, a discharge from Prussian nationality, and the assumption seems justified that in making this application for discharge he was actuated solely by the purpose of withdrawing himself from the performance of the general military duty in Prussia.

A sufficient sojourn, one of more than two and one-half months, having been permitted him for a visit to his relations and for the purpose of attending to any business matters claiming his attention, it appears to be requisite in the interest of the state to carry into execution the expulsion decreed at the end of the period of respite expiring on January 1 next.

The undersigned avails himself, &c.,

H. v. BISMARCK.

[Inclosure 4 in 142.]

*Mr. Pendleton to Count Bismarck.*

## LEGATION OF THE UNITED STATES,

*Berlin, December 24, 1885.*

The undersigned, envoy, &c., of the United States of America, has the honor to acknowledge the receipt of the note of the 21st instant of Count Bismarck Schönhausen, under-secretary of the state in charge of the imperial foreign office, touching the notices heretofore given by the royal Prussian authorities to nine persons, citizens of the United States (whose names are therein enumerated) temporarily in their native province of Schleswig-Holstein; to leave the country within the several periods specifically designated, and the *note verbale* from the imperial foreign office dated the 23d instant, stating that Peter Jepsen, of Schottburg, left Prussia on the 30th day of last month, and the esteemed note of the same date in relation to the case of Hark Ocke Nickelsen.

The undersigned desires to express the satisfaction with which he receives the information that the royal Prussian authorities accede to the wishes of Simon Meinert Boysen to remain in his former home until the spring of next year.

Reserving for another opportunity such further comments as he may desire to submit, the undersigned begs leave now, before the several orders of expulsion have been executed, respectfully to present to Count Bismarck some views which he deems pertinent.

The persons whose cases are under consideration are all citizens of the United States; they returned to Germany with the single purpose of fulfilling a filial duty, or attending to the settlement of their business affairs; they contemplated a return to the United States at various dates during the months of the spring or early summer of next year, and not later. Neither the purpose nor the duration of their proposed and desired sojourn was indefinite or uncertain. Both were specific and limited. They have obeyed all the laws and observed a decent and orderly behavior since their arrival in Germany.

The refusal to permit the longer sojourn in Prussia of Meinert Hinrich Riewerts (foreign office, No. 120), Ocke Edward Nickelsen (foreign office, No. 122), Ingwer Georg Jappen (foreign office, No. 121), Peter Cornelius Andresen (foreign office, No. 119), Peter Jepsen (foreign office, No. 129), Hark Ocke Nickelsen (foreign office, No. 130), seems to be based on the idea that the facts that they left Prussia shortly before they had attained the age of military service and returned soon after acquiring citizenship in the United States, one or both, constitute in some sort an offense, and that permission to remain longer would seem to be a furtherance by the authorities of an attempt to evade military duty, which would be detrimental to the general welfare and public order.

The undersigned respectfully submits that neither can be properly held to be a subject of reproach, inasmuch as the permission to leave Germany and discharge from Prussian nationality were expressly granted to them before their emigration to the United States, and their return as American citizens is expressly provided for by the terms of the treaty between Prussia and the United States of March 14, 1828, whereby liberty is granted reciprocally to all citizens of either country to reside in the territories of the other in order to attend to their affairs. Count Bismarck kindly imparts the information in the above mentioned note that permission to leave Germany and abandon Prussian nationality cannot be lawfully refused in time of peace to any person under the age of seventeen years.

Article 2 of the treaty of February 22, 1868, provides that persons abandoning their native allegiance and acquiring another shall, upon their return, remain liable only for an action punishable by the laws of their original country, and committed before their emigration, and then only within the times provided for the limitations of actions.

In the cases of Hans Peter Jessen, Heinrich Freidrick Nikolaus Rohlfis, and Constantin Heinrich Edward Rohlfis there does not appear that permission to emigrate or discharge from Prussian nationality was either asked or granted, but the undersigned submits that such permission is not a condition imposed by the treaty of 1868, precedent to a lawful emigration and acquisition of citizenship in the United States, and that in respect to these persons the above considerations, based on that treaty as well as the earlier treaty of 1828, equally apply.

The undersigned will not now enter into a discussion of the right of each nation to decide for itself the persons who shall remain within its borders, but thinks it appropriate now to remember that the unlimited right to exclude from its territories citizens of the other country has been somewhat curtailed by the contracting parties to the above-named treaty of 1828. Such treaties are very frequently made by the most enlightened powers in the interest of a humane and profitable policy of com-

mercial and social intercourse. That such policy is entirely in accord with the best spirit of modern civilization, and may not be needlessly violated without wounding national susceptibilities and pride, the undersigned most respectfully submits these considerations to Count Bismarck, and prays that he may give them due weight before final action in the case referred to, and avails, &c.

GEO. H. PENDLETON.

No. 152.

*Mr. Pendleton to Mr. Bayard.*

No. 154.]

LEGATION OF THE UNITED STATES,  
*Berlin, January 8, 1886. (Received January 25.)*

SIR: I hasten to send the inclosed note and translation which I received from Count Bismarck. It is in response to my note (foreign office, No. 143), dated December 24, 1885, of which I sent copy in my dispatch No. 142 of December 25, 1885. No new position is taken therein. The insistence is on the right of every nation to expel those whom it may deem detrimental to its order and safety; that in this case no limitation is imposed by either the commercial treaty of 1828 or the Bancroft treaty of 1868, and that "the liability to perform military service is one of the most essential and important foundations of our state life." So far as my researches have gone, it is the first time an argument is drawn from the protocol attached to the treaty with Bavaria of May 26, 1868.

That treaty was negotiated by Mr. George Bancroft about two months after he had concluded the treaty of February 22, 1868, and after its ratifications had been exchanged, and is in all its important stipulations in the words of the latter treaty. The protocol was signed simultaneously with the signature of the treaty and is explanatory of its provisions.

The first clause of the article, III, certainly does provide that (the underscoring is mine)—

The regulative powers granted to the two Governments respectively by their laws for protection against resident aliens whose residence *endangers peace and order in the land* are not affected by the treaty. In particular the regulation contained in the second clause of the tenth article of the Bavarian military law of the 30th January, 1868, according to which Bavarians emigrated from Bavaria before the fulfillment of their military duty cannot be admitted to a permanent residence in the land till they shall have become thirty-two years old, is not affected by the treaty.

But it does also provide very significantly for the purpose of our case, if the argument of the foreign office is to be held forcible, that—

It is established and agreed that, by the expression "permanent residence" used in the said article, the above-described emigrants are not forbidden to undertake a journey to Bavaria for a less period of time and for definite purposes, and the Royal Bavarian Government moreover cheerfully declares itself ready in all cases in which emigration has taken place *in good faith* to allow a mild rule in practice to be adopted.

Doubtless the Prussian authorities would call attention to the words above *in good faith*, and insist that emigration could never be *in good faith* in the face of closely impending military service. Whatever force this suggestion might have in any particular case, or even in these now under consideration from the Island of Föhr, it is very obvious that the non-fulfillment of military duty before emigration cannot be held of itself to impeach the *bona fides* of the emigration. The whole provision is based on the idea that such emigration may be in good faith, or in bad faith,



and this must be determined by other circumstances than the antecedent non-performance of military duty.

But it is clearly worth while to consider whether the argument fairly deducible does not make against the position of the foreign office.

If the protocol was necessary to give to the Bavarian treaty the interpretation which is claimed, what effect shall the absence of a protocol have, in the case of an antecedent treaty, with the North German Confederation couched in the same words as the Bavarian treaty? Does the protocol of the Bavarian treaty give authentic interpretation to the treaty of the North German Confederation? Does not the protocol rather emphasize the difference of meaning in that treaty alone, and in the treaty with the protocol? \* \* \*

I have, &c.,

GEO. H. PENDLETON.

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[Inclosure in No. 154.—Translation.]

*Count Bismarck to Mr. Pendleton.*

FOREIGN OFFICE, *January 6, 1886.*

The undersigned has had the honor to receive the note dated December 24 last, foreign office, No. 143, relating to the expulsion of several American citizens from Prussia, of the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Pendleton, and to give to the statements contained in the same an attentive appreciation. To his regret the undersigned is not able to adopt in all points the views expressed by the envoy, and has only found it possible to request the appropriate Royal Prussian authority to grant to Meinert Boysen (Simon Meinert Boysen), who seemed worthy of special consideration, permission to sojourn in Prussia until the beginning of next summer.

In the note of the undersigned of the 21st of December last, it was already pointed out that the refusal of the permission in question was based on the consideration of the particular circumstances under which the nine persons concerned left their native land and have now returned to it. The Prussian authorities are convinced that all of those persons emigrated solely for the purpose of withdrawing themselves from the performance of military duty. If such persons were permitted, after they have acquired American citizenship, and while appealing to this change of nationality, to sojourn again, according to their pleasure, unhindered, for a shorter or longer period, in their native land, furtherance would thereby be given to similar endeavors, and respect for those laws would be endangered upon which is based the general liability to military service, one of the most essential and important foundations of our state life. Solely on this account, and not as a sort of punishment for evasion of military duty, has the expulsion of those persons been decreed, after a period of sojourn amply sufficient under the circumstances had been accorded them.

The envoy has advanced the question whether the right of the Prussian Government to expel American citizens has not been restricted by the treaty regulating nationality of the year 1868, and earlier by the treaty of commerce and navigation, of May 1, 1828, between Prussia and the United States. So far as the last-named treaty is concerned, considering it first, Article I of the same provides that the citizens of either state shall be at liberty to sojourn in the territory of the other state, in order to attend to their affairs there, and that they shall enjoy for that purpose the same protection as the citizens of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing.

Heretofore the foreign office has pointed out, in the note of Count Hatzfeldt of May 16 last, that, in conformity with the view heretofore generally entertained in intercourse between the Empire and Prussia and other states, and contested from no quarter, provisions of this character by no means conflict with the right of every independent state to expel foreigners from its territory when such course is considered requisite upon grounds of the welfare of the state or of the public order.

Nor do the treaties regulating nationality of the year 1868 conflict with the exercise of this right.

Under Figure III, No. 1, of the final protocol of the Bavarian-American treaty, which agrees in all essential points with the treaty between the North German Confederation and the United States, this is distinctly recognized, and thereby the North German-American treaty, concluded at an earlier date, has, in a certain manner, received

an authentic interpretation. Germans naturalized in America, who have resided five years in the United States, are, it is true, in accordance therewith to be regarded as Americans, and are also to be treated as such in case of their return to Germany, in so far as they have not, in accordance with Article IV of the treaties, renounced the naturalization acquired in the United States. They may, however, nevertheless, when the accompanying circumstances require, be expelled like any other foreigner. On principle this right will be considered only when maturely-considered grounds of the public welfare compel.

The envoy may rest assured that the Royal Prussian Government has been actuated solely by considerations of this character in the action it has taken with respect to the persons in question.

The undersigned avails, &c.,

H. v. BISMARCK.

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No. 153.

*Mr. Pendleton to Mr. Bayard.*

No. 188.]

LEGATION OF THE UNITED STATES,  
*Berlin, February 1, 1886.* (Received February 15.)

SIR: Referring to your instruction No. 19, of July 7, 1885, in relation to the case of Charles L. George, I have the honor to inclose herewith the correspondence with the imperial foreign office which ensued upon its receipt.

My note, dated August 13, 1885, followed closely the statement of facts and the line of arguments recommended by the Department. \* \* \*

My reply to the foreign-office note (foreign office, 166, of this date) maintains the citizenship of Charles L. George in an argument which I hope will meet your approval. If you will suggest any considerations, in support of my position they will form the subject of another note to the foreign office.

It will be observed, as was anticipated by you, that the German Government adheres to the position that the treaty regulating nationality, of February 22, 1868, has no application to Alsace-Lorraine.

\* \* \* \* \*

Whatever doubt might possibly arise as to the nationality of Charles acquired as a minor through the naturalization of the father—and I do not see any—there can be none, it seems to me, as to the validity in the United States of his own naturalization in 1874, for he complied strictly with the laws of the United States.

What effect, if any, the French law of 1851, as quoted in the note of the foreign office, or the Bundes-gesetz of June 1, 1870, also alluded to, may have, I submit to your better judgment. You will notice how I have answered the suggestion of their effect on this specific case.

Article I of the Bancroft treaty of 1868 provides that—

Citizens of the North German Confederation who have become, or shall become, naturalized citizens of the United States of America, and shall have resided uninterruptedly within the United States five years [the italics are mine], shall be held by the North German Confederation to be American citizens, and shall be treated as such.

Mr. Bancroft, in a dispatch commenting on and explaining at length the provisions of the treaty, says that naturalization and residence for five years in the United States are both essential to the recognition by the North German Confederation of these naturalized persons as American citizens; that if the Government of the United States shall choose to confer citizenship after a shorter residence, for any reason whatever—service in the Army, or any other—such citizenship will not be recog-

nized by the North German Confederation until or unless the residence of five years shall be completed. He says also that he had very great difficulty in inducing the North German Confederation to consent that the term should be five years instead of ten years, as prescribed by the law of June 1, 1870, above cited.

In default of a treaty, would the absence of ten years, prescribed by the law of 1870, be essential to the loss of German nationality and the recognition of American citizenship? Or would the latter be held subordinate to the claims of allegiance on the part of Germany? Or would a claim of double allegiance exist, to be exerted as opportunity to enforce it might happen to be at hand, as is very strongly hinted in the note of the foreign office of January 15, 1886, in the case of Henry Rabien, inclosed with my dispatch No. 182, of January 28, 1886?

The law of June 1, 1870, is in these words:

[Translation.]

*Law of June 1, 1870, concerning the loss and acquisition of nationality in the North German Confederation and in the various states thereof.*

\* \* \* \* \*

SECTION 13. State nationality can be lost henceforth in the following ways only :

- (1) By discharge upon application therefor (sections 14 and following).
- (2) By decree of the public authority (sections 20 and 22).
- (3) By a residence of ten years abroad (section 21).
- (4) In the case of illegitimate children, the father having another allegiance than that of the mother, by legitimation effected pursuant to the provisions of law.
- (5) In the case of a North German by marriage with a person having allegiance in another state of the Confederation, or with a foreigner.

SEC. 21. North Germans who leave the territory of the Confederation and sojourn during a period of ten years uninterruptedly abroad lose thereby their state nationality. The above-designated period is reckoned from the time of the departure from the territory of the Confederation; or, if the person leaving is in possession of a passport or home certificate, from the time of the expiration of this paper. It is interrupted by an entry on the files of a consulate of the Confederation. Its course recommences with the day following the cancellation of the entry on those files.

\* \* \* \* \*

For North Germans who sojourn in a foreign state for at least five years uninterruptedly and at the same time acquire nationality there, the period of ten years may by treaty be reduced to one of five, whether or not the persons concerned are in possession of a passport or home certificate.

This law, originally applicable to the North German Confederation only, was, by law January 8, 1873, made applicable to Alsace-Lorraine.

I have purposely refrained from any discussion of the question of the applicability of the treaty of 1868 to Alsace-Lorraine and of any other question suggested by the foreign-office note, except so far as was necessary to my reply. I preferred to be advised by the Department before entering upon those questions.

It will also be observed that there is an absolute denial of any ill-usage of George, by way of bad or insufficient food, hard work, or imperiled health during the time of his confinement. On this point I have no other evidence than the affidavit of George, against which is put the statement of the foreign office, backed by the prison officials. Before entering on this branch of the case again I preferred to have any additional evidence and such instructions as the Department may send to me.

I have, &c.,

GEO. H. PENDLETON.



[Inclosure 1 in No. 188.]

*Mr. Pendleton to Count Hatzfeldt.*LEGATION OF THE UNITED STATES,  
*Berlin, August 13, 1885.*

The undersigned envoy, &c., of the United States of America has the honor to invite the attention of his excellency, Count Hatzfeldt, imperial secretary of state for foreign affairs, to the case of Charles L. George, a citizen of the United States, lately imprisoned by the Imperial Government.

Peter George, the father of Charles L. George, above named, was a native of Germany, emigrated to the United States, was naturalized in the month of October, 1848, returned to Germany in the year 1851, and afterwards married there. The son Charles was born in Lambertsloch on the 9th of January, 1859. In May, 1875, when Charles was somewhat more than sixteen years of age, the father and son both went to the United States and have resided in Philadelphia ever since. By virtue of his father's citizenship, Charles, as a minor, enjoyed all the rights of a citizen, and when he became of suitable age exercised the right of voting.

In anticipation of a visit to Germany, however, and perhaps by way of greater precaution, he obtained his own citizen's paper on the 10th of May, 1884, and returned to his birthplace, arriving there on the 2d of June following.

On the 12th of July of the same year he was arrested by a gendarme named Rick at the town of Sulz, on the Wald. Inquiring the cause of his arrest he was informed that it was on a judicial prosecution for avoidance of military duty to the German Government. George explained that he was a citizen of the United States, that his citizen's paper was at Lambertsloch, and requested the gendarme to take him to that place to get his paper or to send there for it. The gendarme refused to do so, saying he did not wish to see his paper, and took him to Strasbourg, 30 miles distant, where he was thrown into prison among criminals, fed on very poor unwholesome food, and put to hard work.

At his first interview the prison inspector informed George that his paper had been sent for, and on its arrival he would be released. The same inspector afterwards told him that the paper had arrived the third day after the arrest and had been sent to the stadtholder General Manteuffel.

When he had been imprisoned twenty days, his friends petitioned for his release, but were told he must remain in prison forty days, which he did, and was then released. In the mean time he was fed on very poor, unhealthy, insufficient diet, and was compelled to work at very severe labor for many hours each day, the work hours being from 5 a. m. to 7 p. m. He was ill from this hard usage when released, and continued to suffer from ill health for some time.

When arrested he had 63 marks on his person, which were taken from him, and when released 40 marks and 71 pfennige were retained, as the authorities said, to pay for his board whilst in prison and his railroad transportation, although he had been forced to hard labor to pay for his meager food during all that time.

Charles L. George left Germany in 1875 in company with his father, who was a citizen of the United States and domiciled therein, although temporarily sojourning in Germany at the time of the son's birth. The rights of citizenship descended on his minor son. Neither was subject to military duty in Germany.

The fact that George left Germany when he was scarcely more than sixteen years old, four years before the military age, taken in the foregoing connection, leaves not the faintest ground for suspicion that avoidance of military obligation was in any degree a motive for his emigration. There is no reason to believe, nor was it charged, that he entertained any purpose or desire to remain in Alsace-Lorraine.

The undersigned begs to bring the foregoing case to the attention of his excellency Count Hatzfeldt, and to request a careful examination into these alleged facts, in the full conviction that if they shall be found to be substantially as the undersigned has presented them, such explanations will be made as will indemnify the injured party, and will promote still further the cordial relations which now so happily exist between the Government of Germany and the United States.

The undersigned has the honor to inclose herewith the citizens papers of Peter George and of Charles L. George, with the respectful request for their eventual return, and avails himself of the occasion to renew, &c.,

GEO. H. PENDLETON.

[Inclosure 2 in No. 188.—Translation.]

*Count Bismarck to Mr. Pendleton.*FOREIGN OFFICE, BERLIN, *January 22, 1886.*

The undersigned has the honor to communicate the following to the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. George H. Pendleton, in reference to his note of the 13th August of the last year, (foreign office No. 92), concerning the American citizen Charles L. George, with a return of the inclosures.

On the 12th of July, 1884, Charles Ludwig Georg (George), born on the 7th of January, 1859, in Lambertsloch (Lower Alsace), who had been condemned for avoidance of military duty by the judgment of the landgericht at Strasbourg in Alsace, on the 1st April, 1883, to a fine of 600 marks, and in case of nonpayment to imprisonment for forty days, was arrested by the gendarmerie by virtue of a warrant issued against him in his home, and brought to the jail in Strasbourg for the purpose of undergoing his sentence of contingent imprisonment.

From an examination of the case, which was primarily instituted by reason of the petition for mercy by the condemned man, it appeared that George, in the year 1875, emigrated with his parents to America without having sought his discharge from his allegiance to the province of Alsace-Lorraine. A citizen paper, it is true, shows that in May, 1884, he had acquired citizenship in the United States of America. This fact, however, seems to be without importance in reference to his condition as Alsace-Lorrainer and in reference to the question of granting him mercy, inasmuch as the provisions of the treaties regulating nationality of the year 1868, between the North German Confederation or the South German states and the United States of America, have no application in Alsace-Lorraine.

A proof that George, the father, had already acquired American citizenship, was not then presented. As, consequently George, the son, appeared to be undoubtedly an Alsace-Lorrainer, the adjudged contingent imprisonment sentence was executed on him. In the prison he received as other prisoners did, the victuals prescribed in the food regulations for healthy prisoners. He was not under medical treatment. He was employed in handiwork on brush fiber. For these helpers to the workmen no fixed daily task is prescribed. The working hours are fixed by the rules of the house. Beyond these George was not worked. At the time of his reception in prison he gave up 63.79 marks. From this amount, according to existing regulations, were deducted the cost of the execution of the sentence for forty days, at 0.80 marks each = 32 marks; and the expense of transportation 12.94 marks; the remainder, 18.85 marks, with 3.44 wages, together 22.29 marks, were paid to him on his discharge. The charge that he was badly treated in prison, poorly, unhealthily, and insufficiently fed, pressed beyond his strength, and became ill, has proved to be unfounded.

From the investigations, made by reason of the note of the minister concerning the question of citizenship, it appears that George, the father, who was born on the 21st of September, 1821, at Reichshofen, in Alsace, had been in fact once at an earlier date in America. When he betook himself there could no longer be ascertained; nevertheless it is certain that he, in the beginning of the sixth decade, returned to Alsace and settled in Lambertsloch without then or afterwards letting it leak out that he had become an American citizen. In consequence thereof, always and on all sides, after his return he was considered as a French subject, and after the Frankfort treaty of peace as a German subject, and without question admitted to the enjoyment of the rights of a subject, in particular from 1857 to 1874, his name stood on all the lists of electors, and he took part in the communal benefits, for example in the drawings of free fire-wood. Besides, when in the year 1875 he went to America for the second time, he gave himself out as an American so little that he procured a pass effective for two years, from a German authority, the direction of the circuit of Weissenburg. If, as according to the paper of the 16th October, 1848, now presented, certainly appears to be the case, he had then acquired American citizenship, and consequently, pursuant to article 17 of the French civil code, had lost his French allegiance, it is to be attributed only to his own behavior that this fact remained unknown in his home, and that he and his son were treated in consequence as Alsace-Lorrainers; that is to say, as Germans, no blame could be attached to the German authorities on this account, even if their conduct should appear to be "objectively" wrong. But this is not the case.

Article 1 of the French law of February 7, 1851, provides as follows:

"Every person born in France of a foreigner who was himself born there, is a Frenchman, unless within the year which follows the time of his majority, as fixed by the law of France, he claims the quality of foreigner by a declaration made either before the municipal authority of the place of his residence, or before the agents, diplomatic or consular, accredited to France by the foreign Government."

If it should now be admitted, as proven, that George, the father, was an American citizen at the time of the birth of his son, the general conditions set forth in the beginning of this provision for the acquisition of French citizenship by the son are given, a "declaration" of the character described in the further course of the article, George, the son, has never made; but even if it had been made, no rightful importance could attach to it, in view of the North German Confederation law of June 1, 1870, introduced since then into Alsace-Lorraine concerning the acquisition and loss of North German Confederation allegiance (*Bundesgesetz Blatt*, 1870, sec. 355). George, the son, has therefore validly acquired German allegiance.

The asserted complaint cannot be recognized as well founded.

The undersigned avails, &c.,

H. v. BISMARCK.

[Inclosure 3 in No. 188.]

*Mr. Pendleton to Count Bismarck.*

LEGATION OF THE UNITED STATES,  
*Berlin, February 1, 1886.*

The undersigned, envoy, &c., of the United States of America, has the honor to acknowledge the receipt of the esteemed note of Count Bismarck-Schönhausen, under secretary of state in charge of the imperial foreign office, of the 22d of January of this year, in relation to case of Charles Ludwig George.

The undersigned allows himself to remark that it appears to him that some misapprehension in regard to the status of George, the son, may have been caused by an inadvertent statement in regard to the nativity of George, the father, in his communication. (Foreign office, 92, of the 13th August, 1885.)

In order to remove any such possible misapprehension, the undersigned begs permission to restate the facts as they appear, uncontroverted in the two notes above referred to. The facts, as they appear to be abundantly proven, are, that George, the father, was born on the 21st day of September, 1821, at Reichshofen-Alsace, then and until the conclusion of the peace between France and the German Empire at Frankfurt in May, 1871, a province of France, and entirely under the French jurisdiction and Government; that in the year 1840 he emigrated to the United States, and on the 16th of October, 1848, acquired citizenship there, and after a residence there of eleven years, returned in the year 1851 to Alsace, still a province and part of France, where he remained until the month of May in the year 1876.

George, the son, was born on the 9th January, 1859, in Alsace, still a province of France, and remained there until May, 1875; when, in company with his parents, he left Alsace, then lately, in May, 1871, became a German possession, and took up, under the charge of his father, his residence in the United States, and has remained and had his domicile there ever since. In the year 1884, from abundant caution, as he contemplated a journey to Europe, he took out from the proper authority his naturalization papers, although he had previously exercised all the rights and performed all the duties of an American citizen, in virtue of the naturalization of his father, and his own arrival and residence in the United States during his minority; and then on the 2d day of June, 1884, after nine years' residence in the United States, returned to his birth-place on a temporary visit.

George, the father, never was a German subject. At the time of his emigration, and until the time of his naturalization he was a subject of France. His naturalization in the United States was valid according to the law of the United States, and was recognized as valid by the laws and practice of France, and thereby, that is, by the laws and practice by both France and the United States, he at the same time and by the same act became an American citizen and was absolved entirely from his allegiance to France.

George, the son, never was a German subject. He was born in Alsace, a province of France. He was the son of a native Frenchman, but a naturalized American citizen temporarily in France. By the laws of the United States this son was an American citizen, and by the law of France he had in any event the inchoate right to become such on the performance of acts within a year of his majority, which acts on his part the change of jurisdiction over Alsace alone made impossible.

Residing on territory, French at the commencement of their residence, but during their residence acquired by conquest and treaty by the German Empire, neither he nor his father took any steps to become German subjects, but went to the father's home in the United States in May, 1875. The French law of February 7, 1851, quoted in the esteemed note, cannot apply to the son because it had been superseded by the newly established authority and laws of the German Empire over Alsace, the country of his birth and temporary sojourn.

The law of the North German Confederation afterwards extended to the Empire, also therein mentioned, cannot apply, because that law relates only to the acquisition



and loss of German nationality, and, as above stated, neither George, the father, nor George, the son, ever had that German allegiance to lose. It may be that George, the father, demeaned himself in Alsace, either during its continuance as part of France, or after it became a possession of the German Empire, in a manner not to be commended, by keeping silent as to his American citizenship, or by taking free fire-wood, or even by not having his name stricken from the electoral lists, but such ill behavior, if it really occurred, did not reinstate him as a French subject by French law, nor acquire for him German nationality by German law. He continued, none the less on this account, to be an American citizen, and transmitted citizenship to his son.

Theson could not comply with the French law of 1851, because of the above-named change of jurisdiction in Alsace, and because of the change of his residence from Alsace to the United States, so that it became impossible to make the declaration either before the French authorities or the United States officers, diplomatic or consular accredited to France, although he did in fact make the declaration in the most effective, practical manner by leaving the country and actually performing the duties of a citizen of the United States, and obtaining a decree of naturalization.

He could not comply with the law of Germany of 1870, because he had no German allegiance to lose, though he did, in fact, absent himself from Germany for nine years.

It is therefore respectfully submitted that George, the son, was not a German subject, obliged to perform military duty, and therefore was improperly fined for avoidance of military duty to the Empire; and that he was an American citizen, and therefore entitled to the intervention of the United States.

The undersigned has intentionally waived, for the purpose of the present note, all discussion as to the applicability of the treaty regulating nationality of 1868 between the North German Confederation and the United States, reserving to another occasion that discussion, if it shall seem desirable.

I am, &c.,

GEO. H. PENDLETON.

### No. 154.

*Mr. Pendleton to Mr. Bayard.*

No. 193.]

LEGATION OF THE UNITED STATES,  
*Berlin, February 8, 1886. (Received February 24.)*

SIR: I report herewith my application to the foreign office (foreign office, No. 169) made to-day, in behalf of Carl Hans Gehrt Johannes Fridrich Burmeister, a naturalized citizen of the United States, who has been ordered to leave Prussia by February 1, 1886.

The facts in this case are, that just prior to sailing for America, Burmeister obtained a pass from the German authorities running for five months; that he arrived in the United States on August 9, 1881,\* was naturalized on September 3, 1885, returned to Germany on October 2, 1885, and was permitted to remain four months.

It will be observed that I \* \* \* have stated the facts of Burmeister's purchase of lands in Washington Territory, of his original intention to return soon and settle on and improve them; of his present detention by the illness of his father, and of his desire now to remain until the 1st of July proximo, in order that the character and cause of his delay may clearly appear.

I have, &c.,

GEO. H. PENDLETON.

[Inclosure in dispatch No. 193.]

*Mr. Pendleton to Count Bismarck.*

LEGATION OF THE UNITED STATES,  
*Berlin, February 8, 1886.*

The undersigned, envoy, &c., of the United States of America, has the honor to invite the attention of Count Bismarck Schönhausen, under secretary of state in charge of the imperial foreign office, to the case of Carl H. G. J. F. Burmeister, a naturalized

\* An error for 1880. See *post*, document No. 157.

citizen of the United States, who has been ordered to leave Prussia by the 1st of February, 1886.

The facts in this case as presented by Burmeister are as follows: He was born at Heide, in Schleswig-Holstein, June 12, 1861, and emigrated early in August, 1881, to the United States, where he was naturalized at San Francisco, Cal., on September 3, 1885. On the 2d of October last Burmeister returned to Germany on a visit to his parents. On the 24th of January last a written order from the royal landrath at Heide, dated the 20th of that month, was served on him, requiring him to leave Prussia by the 1st of February following. The order, which assigns no reason for his expulsion, recognizes his American citizenship. Burmeister states that it is his intention to return to his adopted country when his visit is completed, in order to settle on and improve the lands which he has purchased in the extreme western portion of the United States, but has found his father in a suffering condition and desires to remain only a few months, viz, until July 1 next, in order to care for him and watch over his health. He has transmitted to this legation a certificate of the royal *kreisphysikus* as to his father's condition.

As Burmeister appears to be sojourning in Prussia temporarily only and for the purpose of performing a filial duty, the undersigned begs that Count Bismarck will kindly cause the order of expulsion to be withdrawn if the facts shall, upon investigation, be found to be as stated.

The undersigned incloses herewith Burmeister's certificate of naturalization in the United States, the order above referred to, and the certificate of the *kreisphysikus*, with the respectful request for their ultimate return, and avails, &c.

GEO. H. PENDLETON.

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No. 155.

*Mr. Bayard to Mr. Pendleton.*

No. 104.]

DEPARTMENT OF STATE,  
Washington, March 10, 1886.

SIR: Your dispatch No. 193, of the 8th ultimo, reporting your application to the foreign office on behalf of Mr. C. H. G. J. F. Burmeister, alleged to be a naturalized American citizen who had been ordered to leave Prussia by the 1st of February last, has been received and considered.

In reply, I have to observe that if the dates are correctly given in your dispatch, Mr. Burmeister quitted Germany in 1881, arriving in this country on the 19th day of August of that year, and was naturalized September 3, 1885, after a residence in the United States of only four years and fifteen days. His case would not therefore seem to be a proper one for presentation under the treaty, or for interference by the legation on the applicant's behalf unless the presumption of fraud upon the court which naturalized him be dispelled.

I am, &c.,

T. F. BAYARD.

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No. 156.

*Mr. Pendleton to Mr. Bayard.*

No. 214.]

LEGATION OF THE UNITED STATES,  
Berlin, March 23, 1886. (Received April 12.)

SIR: I inclose herewith a copy of my note to the foreign office (foreign office, No. 178) of the 8th instant, intervening in behalf of Knud Nielsen Knudsen, a naturalized citizen of the United States, whose ex-

pulsion from Prussia has been threatened by the authorities of Schleswig-Holstein. The facts of the case bearing upon the questions involved are fully set forth in my note.

I have the honor, &c.,

GEO. H. PENDLETON.

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[Inclosure in No. 214.]

*Mr. Pendleton to Count Bismarck.*

LEGATION OF THE UNITED STATES,  
*Berlin, March 8, 1886.*

The undersigned envoy, &c., of the United States of America, has the honor to invite the attention of Count Bismarck-Schönhausen, under secretary of state in charge of the imperial foreign office, to the case of Knud Nielsen Knudsen, a naturalized citizen of the United States.

The facts in the case as presented to the legation by Knudsen are the following: He was born at Aterp-Brede Loge, Schleswig-Holstein, on August 3, 1859, and emigrated on July 23, 1878, to the United States, where he was naturalized in Douglas County, Nevada, on October 18, 1884. In the latter part of December last, he returned, on a visit to his parents, to his native place, intending to return to the United States by the 15th of April next. Upon presenting his papers to the local authorities, Knudsen was informed that he might remain at his native place until February 28 last, and subsequently, upon his inquiry, he was also informed that no harm would happen to him if he remained until further orders. Knudsen states that his father is old and ill, and that he needs his help and receives it. He also states that he particularly wishes to remain in his native country until after the 11th of April next, when his young sister, who is to accompany him to the United States, is to be confirmed.

The undersigned expresses the hope that an order to Knudsen to leave his native place will not be issued, if the facts shall, upon investigation, be found to be as stated.

The undersigned incloses herewith Knudsen's certificate of naturalization in the United States, with the respectful request for its ultimate return, and avails, &c.,

GEO. H. PENDLETON.

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No. 157.

*Mr. Pendleton to Mr. Bayard.*

No. 218.]

LEGATION OF THE UNITED STATES,  
*Berlin, March 29, 1886. (Received April 12.)*

SIR: Referring to your instruction No. 104, of the 10th instant, I have the honor to inform you that, before the receipt of the same, the error made in giving the date of the emigration of C. H. G. J. F. Burmeister in the communication presenting his case had been corrected in an informal note addressed by the legation to the foreign office. The error seems to have occurred from the confusion growing out of the circumstance that in one of the papers submitted in connection with the case, the date of emigration was stated to be 1881. In another, however, it was given as 1880, and as the latter date tallied with other essential facts presented, such as the date of his birth, his age at the time of emigration and with his possession of a certificate of naturalization, it seemed proper to assume that it was correct.

I have the honor, &c.,

GEO. H. PENDLETON.

P. S.—Immediately on the discovery of the error referred to I applied to the American consul at Hamburg for more definite information, but



was informed by him that Burmeister had returned to America, and that he knew nothing more concerning the case than appeared in the papers submitted to the legation.

G. H. P.

No. 158.

*Mr. Pendleton to Mr. Bayard.*

No. 219.]

LEGATION OF THE UNITED STATES,  
*Berlin, March 29, 1866. (Received April 12.)*

SIR: Referring to my dispatch, No. 188, of the 1st ultimo, and its inclosure, in relation to the case of Charles Ludwig George, in which my intervention was made by the Department instruction No. 19, of the 7th of July last, I have now to inclose a copy and translation of the note from the foreign office received on the 27th instant.

It would seem that the foreign office holds that by virtue of the French law of February 7, 1851, George was a French citizen with a possibility to divest himself of that character by certain acts and declarations within one year after attaining his majority; that the French law remained in force in Alsace-Lorraine until some date in the year 1873, when it was superseded by the law of the German Empire of June 1, 1870, and that by virtue of the last-named law, George became a German subject, and could not lose that allegiance until after his emigration and continued residence abroad for ten years. He left Alsace-Lorraine in 1875, and returned in 1884.

The foreign office also says that George's naturalization in America before the expiration of the ten years' residence named in the law does not affect his legal condition in Germany, for the reason that the treaties of 1868 do not apply to Alsace-Lorraine.

Awaiting further instructions,

I have, &c.,

GEO. H. PENDLETON.

[Inclosure in No. 219.—Translation.]

*Count Bismarck to Mr. Pendleton.*

FOREIGN OFFICE, BERLIN, *March 26, 1866.*

In his esteemed note of the 1st of February, 1866 (foreign office, No. 166), the Envoy Extraordinary and Minister Plenipotentiary of the United States of America, Mr. George H. Pendleton, has expressed the opinion that the French law of February 7, 1851, mentioned in the note of the undersigned of the 22d January of this year, according to which the son born in France of an alien, himself born in France, must be looked on as a Frenchman, cannot be considered for the purpose of determining the question of the allegiance of Carl Ludwig Georg, who was born on the 9th of January, 1859, at Lambertsloch, in Lower Alsace, for the reason that that law has become void in Alsace-Lorraine in consequence of its acquisition by Germany and the introduction of German laws.

The undersigned allows himself on the other hand to remark that this view rests on an unfounded assumption. According to the principles which have been appropriate in the acquisition and the establishment of the constitution of the imperial territory of Alsace-Lorraine, the law in question, like all laws then in force in the territory, continued to be valid immediately after the acquisition. This law lost its force only in the year 1873, when the law of June 1, 1870, concerning the acquisition and loss of allegiance to the confederation and states was introduced into Alsace-Lorraine.

All persons born in Alsace-Lorraine, who, according to the French law of the year 1851, were to be held to be Frenchmen, became Germans with the cession of this territory

to Germany in so far as they did not make valid choice of the French nationality under the provision of article 2 of the treaty of peace of May 10, 1871.

The right to make choice of the condition of foreigners after the attainment of majority according to the provision of the French law was lost by the introduction of the imperial law of June 1, 1870, and they are from that time onward finally to be considered as Germans, that is to say, as Alsace-Lorraine subjects.

This applies especially to Carl Ludwig Georg, as the son of a naturalized American born in Alsace-Lorraine. That the son was afterwards also naturalized in the United States changes in no degree his legal position, because the treaties regulating nationality of 1868 have, as already mentioned, no application to Alsace-Lorraine.

The undersigned hopes that the minister after weighing this point will not hesitate to recognize that the German authorities were justified in bringing to execution the punishment awarded to Georg, the son, for evasion of military duty, as was done.

The undersigned, &c.,

H. v. BISMARCK.

No. 159.

*Mr. Pendleton to Mr. Bayard.*

No. 244.]

LEGATION OF THE UNITED STATES,  
*Berlin, April 16, 1886. (Received May 3.)*

SIR: On the morning of the 15th instant I received from the imperial foreign office the note in relation to the case of C. H. G. J. F. Burmeister, of which I send you herewith a copy and translation. To-day I replied by a note, of which I also inclose a copy.

It seems to me proper at present to take somewhat similar notice of every refusal, if any more shall occur, to suspend the orders of expulsion issued under like circumstances, in the hope that the German Government will be brought to appreciate the importance which the Government of the United States attaches to every case of the kind, a point on which I think it now falls very short.

I have, &c.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 244.—Translation.]

*Count Bismarck to Mr. Pendleton.*

FOREIGN OFFICE, BERLIN, *April 14, 1886.*

The undersigned has the honor to inform the Envoy Extraordinary and Minister Plenipotentiary of the United States of America, Mr. George H. Pendleton, that the request for the suspension of the order of expulsion against Carl Hans Gerd Johannes Friedrich Burmeister has been subjected to a closer examination, at the same time that he sends back the inclosures of the note of the 8th February of this year (foreign, office, No. 169).

The result of the investigations which have been had leaves no doubt that the same observations apply to the above-named Burmeister as were made in eference to the persons enumerated under Nos. 7, 9, in the note of the undersigned of December 21 of last year, concerning the expulsion of S. M. Boysen and his associates.

Burmeister emigrated to America in the year 1880, shortly before attaining the military age, without having been discharged from his Prussian allegiance, and returned from there to Germany for the first time in October of last year provided with an American citizen paper. The Prussian authorities have reached the conviction, from these circumstances, that Burmeister has been led, in the matter of his emigration, by the intention to withdraw himself from the performance of general military service in Prussia.

Inasmuch as the said Burmeister has been permitted to remain in his home for a period of several months, sufficient for a visit to his relatives and attention to his possible affairs, the appropriate Prussian authorities believed they could not accede to the proposal for the withdrawal of the order of expulsion against Burmeister with due regard to the interests of the state, on the general grounds developed in the several communications heretofore made.

The sickness of the father, of which the note of the 8th February makes mention, consists of an affection of the eyes, with which the sick man has been affected for several years. The authorities are of the opinion that the inconveniences in household affairs which arise from this cause can be obviated by the service of strangers, and that the sick man is in no way dependent exclusively on the aid of the son. Whilst the undersigned regrets that it appears impossible under existing circumstances to accede to the above-mentioned request, he avails himself, &c.

H. v. BISMARCK.

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[Inclosure 2 in No. 244.]

*Mr. Pendleton to Count Bismarck.*

LEGATION OF THE UNITED STATES,  
*Berlin, April 16, 1886.*

The undersigned envoy, &c., of the United States of America, has the honor to acknowledge the receipt of the esteemed note of Count Bismarck Schönhausen, under-secretary of state in charge of the imperial foreign office, of April 14, 1886, declining, on behalf of the Prussian authorities, to grant request heretofore made for the suspension of the order of expulsion of Carl Hans Gerd Johannes Friedrich Burmeister.

The above-mentioned note informs the undersigned that the investigations kindly instituted in pursuance of his note of February 8, 1886, foreign office, No. 169, disclose the facts that in the year 1880 Burmeister emigrated to America shortly before attaining the military age, and without having been discharged from his Prussian allegiance, and returned thence to Germany for the first time in October, 1885, provided with an American citizen paper.

From these circumstances alone the Prussian authorities have drawn the conclusion, which in their view admits of no doubt, that the intention to withdraw himself from the performance of military duty, common in Prussia, led to the emigration of Burmeister, and, on the ground of this inferred intention of Burmeister, the Prussian authorities have felt themselves justified in ordering his expulsion in ten days after the date of the order, to wit, the 24th of January, 1886, although he had returned to Germany only in October, 1885, and desired, for family and business reasons, to remain only until July 1, 1886, lest his longer sojourn should seem to imply a willingness on the part of those authorities to further an attempt to evade military service.

From this interpretation of the treaty rights of citizens of the United States seeking temporary sojourn in Prussia the Government of the United States instructs the undersigned to express its entire dissent. \* \* \*

The undersigned avails himself, &c.,

GEO. H. PENDLETON.

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No. 160.

*Mr. Bayard to Mr. Pendleton.*

No. 124.]

DEPARTMENT OF STATE,  
*Washington, April 27, 1886.*

SIR: Your dispatches, No. 188 of the 1st of February last, and No. 219 of the 29th ultimo, in relation to the questions which have arisen with the Imperial Government in relation to the citizenship of Charles L. George, have been received and considered.

It is an established principle of international law that a child born abroad to a citizen of the United States partakes of his father's national-



ity, subject, however, to the divesting of this nationality by his election, when he arrives at full age, to accept allegiance to the country of his birth. This right cannot be taken from him either by municipal legislation or by treaty enactments to which the country of his inherited allegiance is not a party. From this it follows that the American citizenship, inherited by Mr. George and elected by him when of full age, cannot be divested either by the municipal laws of Germany or by a treaty between Germany and France.

It is also a principle of international law that allegiance can be divested by naturalization in a foreign land, and that this prerogative cannot be divested by the municipal legislation of any particular country to which legislation the naturalizing country is not a party. Hence, even if the first position here taken be waived, which it is not, it must be insisted that Mr. George is now a citizen of the United States, not subject to the municipal laws of Germany unless it be shown that he has abandoned his United States citizenship.

The facts in the case under consideration, as stated in an affidavit of Mr. C. L. George, are as follows: His father, Peter George, a native of Germany, came to the United States in 1840, was naturalized in 1848, returned to Germany in 1851, and married there. The son Charles was born at Lambertsloch, Alsace-Lorraine, in 1859, that is, after his father had been residing there eight years. Both father and son continued to reside there until May, 1875, the son being then sixteen years of age, when they came to the United States. They have since resided, more or less, continuously in Philadelphia. The son states that he voted when he came of age, that is in 1881, by virtue of his father's citizenship, but he appears, in anticipation of his return to Germany, to have taken out naturalization papers on May 10, 1884.

The German foreign office seems to have ignored the American citizenship of Mr. C. L. George as the son of a naturalized citizen of the United States, and to have assumed that having been born in Alsace he became a citizen of France, under the French law of 1851, and, therefore, was subject to German law as a citizen of Alsace-Lorraine, after its cession to Germany. But under the rules of international law, the son, having been born in Alsace-Lorraine, of an American father, had the option of remaining there until his majority and electing to take the allegiance of his birth, or of claiming the allegiance of his father. It appears, however, that he did not remain in Alsace until he obtained his majority. He came to the United States during his minority, and when he arrived at his majority evinced his election of American citizenship by exercising the rights which pertain thereto, and by other acts indicating the same election. Under these circumstances his subsequent taking out of naturalization papers is to be regarded merely as cumulative evidence of his election to take the United States as the country of his allegiance. He was already a citizen of the United States, and was none the less so because he may have entertained unfounded doubts on the subject, as from his conduct would appear to have been the case.

I am, sir, &c.,

T. F. BAYARD.

No. 161.

*Mr. Pendleton to Mr. Bayard.*

No. 255.]

LEGATION OF THE UNITED STATES,  
*Berlin, May 4, 1886. (Received May 15.)*

SIR: The Norddeutsche Allgemeine Zeitung publishes this morning the two documents called, respectively—

Declaration concerning the reciprocal freedom of commercial intercourse between the German and English possessions and dependencies in the West Pacific Ocean.

Declaration concerning the boundaries of German and English jurisdiction in the West Pacific Ocean. \* \*

I have, &amp;c.,

GEORGE H. PENDLETON.

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[Inclosure in No. 255.]

*From the Berlin Norddeutsche Allgemeine Zeitung, May 4, 1886.*

The Reichs Anzeiger publishes the following documents:

*A declaration concerning the reciprocal freedom of trade and commerce in the German and English possessions and protectorates in the West Pacific.*

The Government of His Majesty the German Emperor and the Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland having resolved, after the demarkation of the German and English dominions in the West Pacific Ocean, to secure to themselves reciprocal freedom of trade and commerce in their possessions and protectorates situated in that quarter, within the limits defined by this declaration, the undersigned, Count Herbert von Bismarck, under-secretary of state of His Imperial Majesty's foreign office, and Sir Edward Baldwin Malet, Ambassador Extraordinary and Plenipotentiary of Her British Majesty, having been furnished with proper full powers, have, in the name of their Governments, signed the following declaration:

## I.

In the sense of the present declaration the term West Pacific Ocean is understood to mean that portion of the Pacific Ocean which lies between the fifteenth degree of north and the thirtieth degree of south latitude, and between the one hundred and sixty-fifth degree of longitude west and the one hundred and thirtieth degree of longitude east of Greenwich.

## II.

The Imperial Government and the Royal Government of Great Britain agree that the subjects of each shall have the right to visit all the possessions of the other state, and likewise those districts over which a protectorate has been established by the other state, to settle there, to acquire and own all kinds of property there, to carry on every kind of trade and industry and every kind of agricultural and manufacturing business, on the same conditions, in obedience to the same laws, and in the enjoyment of the same religious liberty, the same protection, and the same privileges as the subjects of the state which exercises rights of sovereignty or of protectorate there.

## III.

In all German and British possessions and in all districts under the protection of Germany or Great Britain in the West Pacific Ocean, the vessels of both states shall reciprocally receive equal usage and the usage of the most favored nation, and German or British goods imported by the subjects of either state under any flag shall not be subjected to any other or higher duties or imposts than those imported by the subjects of the other state or of any third power.

## IV.

All disputed claims to land that has been acquired (before the proclamation of the sovereignty or of the protectorate by either of the two Governments) by a German subject in a British possession, or in a district under the protection of the British Government, or by a British subject in a German possession, or in a district under German protection, shall be examined and decided by a mixed commission, to be appointed for this purpose by both Governments. The claim may, however, be decided by the local authorities alone, provided that the party claiming the land expressly so elect.

## V.

Both Governments pledge themselves to establish no penal colonies in the West Pacific Ocean, and to send no convicts thither.

## VI.

In this declaration the words "possessions and protectorates in the West Pacific Ocean" shall not be considered as referring to those colonies which already have regularly constituted Governments with legislative bodies.

This declaration shall take effect on the day on which it is signed.

Done in duplicate at Berlin, this 10th day of April, one thousand eight hundred and eighty-six.

[L. S.]  
[L. S.]

COUNT BISMARCK.  
EDWARD B. MALET.

*A declaration concerning the boundaries of the German and English dominions in the West Pacific Ocean.*

The Government of His Majesty the German Emperor and the Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having resolved to define the boundaries of the German and English dominions in the West Pacific Ocean, the undersigned, Count H. von Bismarck, under-secretary of state of His Imperial Majesty's foreign office, and Sir Edward Baldwin Malet, Ambassador Extraordinary and Plenipotentiary of Her British Majesty, having been duly provided with full powers, have, in the name of their Government, signed the following declaration:

## I.

In this declaration the term "West Pacific Ocean" is understood to mean that portion of the Pacific Ocean which lies between the fifteenth degree of north and the thirtieth degree of south latitude, and between the one hundred and sixty-fifth degree of longitude west and the one hundred and thirtieth degree of longitude east of Greenwich.

## II.

A line of demarkation is hereby agreed upon in the West Pacific Ocean, beginning at a point near Mitre Rock, on the northeast coast of New Guinea, beneath the eighth parallel of south latitude, which forms the boundary between the German and the British possessions on that coast, and following this parallel to the point A, and continuing thence to the points B, C, D, E, F, and G, the situation of which points is as follows:

- A.—8° south latitude; 154° west longitude from Greenwich.
- B.—7° 15' south latitude; 155° 25' west longitude.
- C.—7° 15' south latitude; 155° 35' west longitude.
- D.—7° 25' south latitude; 156° 40' west longitude.
- E.—8° 50' south latitude; 159° 50' west longitude.
- F.—6° north latitude; 173° 30' west longitude.
- G.—15° north latitude; 173° 30' west longitude.

The point A is marked 780, "Pacific Ocean" (southwest sheet), on the British admiralty chart; the points B, C, D, and E are marked 214 (South Pacific, Solomon Islands), on the British admiralty chart, and the points F and G, 781, "Pacific Ocean" (northwest sheet), on the British admiralty chart.



## III.

Germany pledges herself not to make any acquisitions of territory; not to establish any protectorates; not to oppose the extension of British influence, and to relinquish all territories heretofore acquired by her or over which she has established a protectorate in that part of the West Pacific Ocean lying to the east, southeast, or south of the aforesaid dividing line.

## IV.

Great Britain pledges herself not to make any acquisitions of territory; not to establish any protectorate; not to oppose the extension of German influence, and to relinquish all territories heretofore acquired by her or over which she has established a protectorate in that part of the West Pacific Ocean lying to the west, northwest, or north of the aforesaid dividing line.

## V.

In case it shall be shown by future surveys that any islands now represented on the aforesaid maps as situated on one side of the aforesaid dividing line, are really situated on the other side, the aforesaid dividing line shall then be so changed that such islands shall appear on the same side of the line on which they are now represented on the aforesaid charts.

## VI.

This declaration shall not apply to the Navigator's (Samoa) Islands, with which Germany, Great Britain, and the United States have concluded treaties, nor to the Friendly (Tonga) Islands, with which Germany and Great Britain have concluded treaties, nor to Niné Island (Savage Island), which groups shall in future, as heretofore, form a neutral territory, nor to any islands or places in the West Pacific Ocean that are now under the sovereignty or protection of any civilized power other than Germany or Great Britain.

Done in duplicate at Berlin, this sixth day of April, one thousand eight hundred and eighty-six.

[L. S.]  
[L. S.]

COUNT BISMARCK.  
EDWARD B. MALET.

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No. 162.

*Mr. Pendleton to Mr. Bayard.*

No. 346.]

LEGATION OF THE UNITED STATES,  
*Berlin, November 29, 1886. (Received December 13.)*

SIR: Accompanying this are copy and translation of the Emperor's speech on the opening of the Reichstag, on Thursday, the 25th instant.

Although the members were convened in the famous "Weisse Saal" in the royal palace, the ceremony was of the simplest character. The Emperor was not present, nor were any of the members of the imperial and royal family, Bismarck, or von Moltke. The chancellor was represented by von Boetticher, minister of the interior, who, by the Emperor's permission, read the speech, and declared the session opened. \* \* \*

The speech seems to give great satisfaction throughout Europe, as a further indication that the peace will not be immediately disturbed by reason of the complications arising from events in Bulgaria. \* \* \*

I have, &c.,

GEO. H. PENDLETON.

[Inclosure in No. 346.—Translation.]

*Speech of the Emperor at the opening by commission of the Reichstag in the "Weisse Saal," November 25, 1886.*

Herr v. Boetticher, imperial minister of the interior, read the speech.

HONORABLE GENTLEMEN: His Majesty the Emperor has been pleased to authorize me, in the name of the confederated Governments, to open the Reichstag. The most important duty which will occupy the Reichstag is its co-operation in the further securing of the military strength of the Empire.

By the law of the 6th May, 1880, the strength of the peace establishment of the army was settled until the 31st of March, 1885.

The permanency of our military affairs requires, therefore, the renewal of its legal basis. In the army lies the assurance of the continued protection of the blessings of peace; and, if the policy of the Empire is to remain a peaceful one, Germany cannot, in view of the development of the military establishments of our neighbor-states, longer refuse an increase of its armaments, and especially of its present peace establishment. A bill will be laid before you, according to the provisions of which the increase of the effective strength of the army will come into operation with the beginning of the new fiscal year. His Majesty the Emperor, in common with the confederated Governments, cherishes the confidence that the necessity of this demand, unavoidable in view of the interest of our national safety, will be fully recognized by the whole body of the German people and their representatives.

A second bill which will occupy you concerns the care of the widows and orphans of the members of the army of the Empire and of the imperial marine. The necessity of this care has already been recognized. The confederated Governments believe that they may the more confidently rely on the passage of this law, inasmuch as this new bill meets substantially the views expressed in the Reichstag, touching some modifications.

In the provision for the cost involved in these bills, as well as in the expenditures proposed in the household budget, consideration of the financial situation has not been left out of view. However, an increase of the contribution on the part of the states and the means to be provided by way of credit cannot be avoided; besides the increase of expenditures caused by the strengthening of our military position on the water and by land, and the greater outlay imposed on us by our just obligations in reference to the indebtedness of the Empire and the pension system, a considerable deficiency of the sugar tax of the last year needs to be supplied.

Under these circumstances the necessity, repeatedly presented to the Reichstag, of a different distribution of burdens by an increase of the indirect taxes, not only continues, but in consequence of the estimated increase regarding the contribution of the various states, will be more stringently felt than heretofore. At the same time the confederated Governments have been forced to infer from the votes given by the Reichstag over their plans of taxation that their unanimous conviction of the necessity of a change in the manner of providing the needed revenue is not shared by the majority of the population and their representatives at the time, to such a degree, that the agreeing conclusions of the two legislative bodies of the Empire could be expected with greater probability than in the last year.

In consideration that the confederated Governments have no other interest than that of the nation, His Majesty declines to press anew his own conviction of the necessity of the tax reform heretofore urged in vain, so long as this necessity is not recognized by the people, and has not found expression in the elections.

The further execution of the social legislation adopted on the reasoning of the imperial message of the 17th November, 1881, lies constantly near to the heart of the Emperor and of his high associates. If certain provisions of the law for the insurance of those who are sick or injured by accident may be advantageously amended, nevertheless, it may be recognized with satisfaction that the paths which the German Empire, in advance of all other states, have trodden in this field have proven themselves as passable, and the new organizations generally commend themselves. The next task for the development of these organizations is to extend the benefits of the accident-insurance to larger circles of the working population. To this end two bills will be laid before you. The one regulates the accident-insurance for the seafarers, the other for workmen engaged on buildings, so far as these classes are not embraced in the legislation already adopted. Only after the accident-insurance of workmen shall have thus been brought nearer to completion in a very considerable degree can progress be made in bestowing upon the working classes a corresponding measure of provision for their old age and invalidism on the basis of the newly created organizations. For the attaining of this end, however, expenditures from the imperial treasury will be necessary, which are not at our disposition with our present taxation legislation.

In full appreciation of the importance of the manufacturing class for the common social welfare, the confederated Governments have followed with interest the efforts

by which the German manufacture seeks to strengthen its corporate associations and to elevate its economic condition. As to the methods which the legislation has adopted in this direction, considerations are suggested which have not yet reached a conclusion, but which give reason to expect that they will lead to a result conducing to the best interest of this class.

The legally prescribed revision of the indemnification for quartering soldiers and of the classification of cities had not been concluded at the last session of the Reichstag. The necessary papers for completing it will be laid again before you.

The scheme of a law for the establishment of a seminary for Oriental languages, which was not finally considered at the last session, will be again brought forward immediately.

The Reichstag has repeatedly given expression to its wish for a reduction of the costs of court and a revision of the fee bill for attorneys. The investigations which were instituted, aside from certain declarations of the law regulating the amount of costs of courts, do not show the necessity of a change on the existing schedule of costs. On the other hand the confederated Governments entertain the opinion that the fee bill of the attorneys can bear in some respect a reduction without injury to the interest of this class of officials. An appropriate bill will be laid before you.

The relations of the German Empire with all foreign states are peaceful and satisfactory. The policy of His Majesty the Emperor is constantly directed, not only to secure to the German people the blessings of peace, but also to make available for preserving the unity of all the powers that influence in the councils of Europe which accrues to the German policy from its assured love of peace, from the confidence of the other Governments obtained by this love of peace, from the absence of special interests in existing questions, and especially from the close friendship which binds His Majesty the Emperor to the two neighboring imperial courts.

By the commands of His Majesty the Emperor I declare in the name of the confederated Governments that the Reichstag is opened.

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## CORRESPONDENCE WITH THE LEGATION OF GERMANY AT WASHINGTON.

No. 163.

*Mr. von Alvensleben to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, February 22, 1886. (Received February 23.)*

The undersigned, Imperial German Envoy and Minister Plenipotentiary, has been instructed to inform the United States Government, officially, that the groups known as the Marshall, Brown and Providence Islands, situated in the eastern portion of the Caroline group, have been placed under the protection of His Majesty the Emperor and King, in pursuance of treaties concluded with the chiefs of those islands (well-established rights of third parties to be duly respected), and that, in token that possession has been taken, the imperial flag has been raised there.

The undersigned, in having the honor to obey his instructions, avails himself, &c.

H. V. ALVENSLEBEN.

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No. 164.

*Mr. Bayard to Mr. von Alvensleben.*

DEPARTMENT OF STATE,  
*Washington, March 4, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo, whereby you convey to this Government official information that the groups known as the Marshall, Brown and Providence Islands,



situated in the eastern part of the Caroline group, have been placed under the protection of His Majesty the Emperor and King, in pursuance of treaties concluded with the chiefs of those islands, in token of which possession has been taken under the imperial flag; it being understood that "well-established rights of third parties are to be duly respected."

In the absence of precise knowledge as to where and to what extent the interest of citizens of the United States are among those well-established rights of third parties, which the imperial Government declares its purpose to cause to be respected, I am unprepared to determine the importance to be attached to this announcement, although I believe I interpret it rightly as a frank and voluntary declaration that those American citizens who already have established or may hereafter establish themselves on those islands, in peaceful accord with the natives, and on a footing of perfect equality with settlers of German and other nationality, will not be disturbed in their rights of residence and intercourse, or discriminated against as compared with German subjects, by reason of this establishment of a German protectorate. This Government has never claimed for itself any exclusive privileges or rights in those regions growing out of the prior or contemporaneous settlements of American citizens, and it cannot, of course, anticipate that any such exclusive privileges or rights will be claimed on behalf of other nationalities to the prejudice of Americans.

Accept, sir, &c.,

T. F. BAYARD.

## GREAT BRITAIN.

No. 165.

*Mr. Bayard to Mr. Phelps.*

No. 289.]

DEPARTMENT OF STATE,  
*Washington, May 11, 1886.*

SIR: With reference to your telegram of the 9th instant, in regard to the fisheries question, I transmit to you herewith a copy of a note which I addressed to Sir Lionel West yesterday on the subject.

I am, &c.,

T. F. BAYARD.

[Inclosure No. 289.]

*Mr. Bayard to Sir L. West, May 10, 1886.\**

No. 166.

*Mr. Phelps to Mr. Bayard.*

No. 285.]

LEGATION OF THE UNITED STATES,  
*London, May 14, 1886. (Received May 25.)*

SIR: Referring to your instructions No. 278, under date of April 24, 1886, in reference to a claim by some person in America, not named, to a supposed estate in England known as the "Dalton estate," I have to say:

(1) So far as I can learn there is no such estate in England.

\* For inclosure see No. 183, p. .)

(2) Nor is there any such title in the peerage as "Lord Dalton."

(3) If there had been such an estate, and it had actually devolved previous to the American Revolution in the precise manner suggested by this claimant, the law of England would afford an insurmountable barrier to its recovery after such a lapse of time, even if the facts on which the title depended and the heirship of the claimant could be established at this late day by legal evidence.

(4) And as the knowledge of the claimant appears to be only a vague tradition, unsupported by documents or proof, such evidence would probably be impossible to obtain.

This case is one of those constantly-recurring delusions among the less intelligent class of the American people which occasion many hundreds of applications to this legation. Most of that class are possessed of the idea that the respective families to which they belong are entitled to vast estates in England, now in the hands of the British Government, awaiting distribution among American heirs, under titles that occurred several centuries ago. The entire property in Great Britain would not be sufficient to satisfy these claims if they were all established.

This belief is fostered by designing persons, who issue advertisements inquiring for heirs of almost all known surnames, and it is given out that these advertisements emanate from the British Government, who are anxious to distribute the possessions in their hands. It is quite impossible to make known to the people for whom these publications are intended that the Government hold no such property, do no such business, and issue no such advertisements. That all the real and personal estate in England, as in America, is in the hands of proprietors who claim it, who are unwilling to relinquish it, and cannot be divested of it except by actions at law based on sufficient grounds and supported by competent evidence, and that such actions, if instituted in England, would stand the same chance of success as they would in the American courts if the claimants sought to possess themselves there of the lands or money of their neighbors under titles derived from ancestors supposed to have existed two or three hundred years ago.

I have, &c.,

E. J. PHELPS.

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No. 167.

*Mr. Bayard to Mr. Phelps.*

[No. 303.]

DEPARTMENT OF STATE,  
Washington, May 21, 1886.

SIR: With reference to my instruction No. 289 of the 11th instant, transmitting to you a copy of my note of the 10th of this month to Sir Lionel West, Her Britannic Majesty's minister at this capital, concerning the fishery question, I now inclose for your information a copy of a further note on the same subject, which I addressed to Sir Lionel West yesterday, inclosing also a copy of the report of the United States consul-general at Halifax, which is referred to in my note to Sir Lionel West.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 303.]

Mr. Bayard to Sir Lionel West, May 20, 1886.\*

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\* See No. 185, p.

[Inclosure 2 in No. 303.]

*Mr. Phelan to Mr. Porter.*

No. 82.]

UNITED STATES CONSULATE-GENERAL,  
*Halifax, May 15, 1886.*

SIR: As instructed by message from the honorable Secretary of State to personally report, fully and carefully, all the facts and proceedings connected with the seizure of the American schooner *David J. Adams* by armed men from the Canadian steamship *Lansdowne*, I left Halifax for Saint John May 10 as soon after receiving the message as the means of travel would permit. After leaving I learned that the vessel had been taken back to Digby, where I proceeded, and found her anchored close to the *Lansdowne* in Digby Harbor. Shortly after my arrival Captain Scott, of the *Lansdowne*, formally transferred the custody of the vessel to the collector of the port of Digby, to be held on a charge, as the collector informed me, of violating the customs act of 1883, the penalty being \$400. He said if this sum was paid and the vessel not claimed by the minister of fisheries he would release her. On the following morning, in order to get at the facts in connection with the seizure, I addressed a note to the collector asking him to furnish me a copy of the charges against the vessel. He replied verbally that the vessel passed out of his possession, and was again in Captain Scott's custody. I then addressed Captain Scott a communication asking him to state in writing, fully and specifically, with as little delay as possible, why he detained this vessel. (A copy marked A attached.)

Captain Scott replied by referring me to the deputy minister of fisheries in Ottawa. (Reply attached marked B.) The refusal of Captain Scott to give this information, which I had a right to have, even without asking for it, was not only discourteous to me, but an indignity to the nation whose vessel he seized. The next morning I heard that a process in an admiralty suit against the schooner was served on the vessel. I went on board and found that the process was served by affixing to the mast with nails what I supposed to be a warrant or summons; no part of which, except the indorsement, was visible. I requested permission from the person in charge of the schooner to take down this process so that I might read, and, if possible, ascertain from its contents what offenses were charged against this vessel. My request was refused; and right here I may remark that it seems a strange course of procedure to serve a party with a process to appear and defend a suit, and then prohibit that party and those interested in his protection and defense in respect to that suit from seeing or inspecting the process thus served. The frequent changes as to the custodians of this vessel, the mysterious, secret, and unexplained movements of these officials, and their refusal to set forth any of the alleged offenses charged to the vessel, was most aggravating.

All the parties to the controversy were on the ground, and want of knowledge could not be urged as a reason why this information was withheld. Not until after my arrival in Halifax, on the 14th of May, did I receive the slightest intimation of the charge against the vessel, but on the contrary every effort was made to conceal it. All I could do under the circumstances was to serve Captain Scott, and the person in charge of the schooner, with protest (marked C). Captain Scott arrived in Halifax on the 12th. On the 14th he sent me a second reply (marked D), in which he stated that the vessel was seized for a violation of the imperial statutes in entering a port for other than a legal purpose.

The facts in this case, as I obtained them from Captain Kinney, are as follows:

The *David J. Adams* entered Digby Bay on Wednesday evening, May 5, 1886. Her captain purchased from a fisherman named Ellis, residing at the entrance of Digby Bay, nearly five barrels of bait. On Thursday he purchased from several fishermen, whose names he did not know, nearly seven barrels of bait. He then brought his vessel to anchor. It appears that this man Ellis had promised to sell this bait to a Canadian captain named Sproule for 75 cents per barrel, but getting \$1.25 from the captain of the *David J. Adams*, sold it to him. The Canadian captain reported the sale to the collector, who telegraphed for the *Lansdowne*, which arrived during the night. On Friday morning the *David J. Adams* in sailing out of the basin was hailed by a boat from the *Lansdowne* and came alongside, the commander of which asked the name of the vessel and that of her owner, where she was from, and her business in the basin. Being answered by the captain in his own way, the boat returned to the *Lansdowne* without ordering the vessel to sea. The schooner continued her course, but ran aground, and while in this position she was boarded a second time. The officer in charge stated that he had orders from Captain Scott to search the vessel, and immediately proceeded to carry out the order, and found some herring. The captain was asked how old they were. He replied about ten days. The boat again returned to the *Lansdowne* and brought to the schooner a new officer, who examined the vessel and returned to the *Lansdowne*. The fourth visit to the vessel brought Captain Scott, who, in the name of the Queen, seized her. On Saturday



morning the vessel was taken to St. John, N. B., and on Sunday she was returned to Digby, the place of capture.

A suit has been begun in the supreme court of Nova Scotia at Halifax in the name of the Queen against Alden Kinney, master, in which the following claim is made, namely, for £200 sterling, equal to \$973.33, for violation of a certain convention between his late Majesty, George the Third, King of Great Britain and Ireland, of the one part, and the United States of America of the other part, made on the 20th day of October, A. D. 1818, and for violation of the act of Parliament of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of his late Majesty, George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter 38 of the acts of the said last Parliament, and passed in said year. In addition to the above, an action has been instituted in the vice-admiralty court at Halifax to have the vessel and cargo forfeited. The charges are (1) that she violated the treaty of 1818; (2) that she violated the provisions of the act 59, George the Third; (3) that she violated the provisions of chapter 61 of the Canadian acts of 1870, and chapter 23 of the acts of Canada, 1871. Also a suit was instituted later for violating the customs act of Canada for 1883. Under this act it is charged that the vessel did not report her arrival at Digby to the customs officer. Digby is a fishing village without a corporation, and, so far as I could learn, and I made special inquiry, the harbor is not defined, and the practice has been that only vessels having business at Digby entered at the custom-house. The records of the office will show, and the collector admitted, that during his forty years' service fishermen went in and out the bay at pleasure and were never required to report. It is very plain that this suit was not instituted to vindicate the law, as the vessel was not apprehended on that charge, but instituted to annoy and harass our fishermen. The other suits are for violating the treaty of 1818, and statutes made under it. I confidently report that the only charge against the vessel that can be sustained, or that she is guilty of, is purchasing fish in British waters.

My conclusions are therefore as follows:

- (1) That the David J. Adams was not fishing, had not fished, and was not preparing to fish in British waters.
- (2) She did not conceal her name nor attempt to conceal her name.
- (3) She did not report to the custom-house at Digby, because she did not enter the harbor of Digby, but only Digby Basin.
- (4) She purchased twelve barrels of fish for bait in British waters for deep-sea fishing, and not to fish in such waters.

I am, sir, your obedient servant,

M. H. PHELAN,  
*Consul-General.*

[Inclosure 1 in Mr. Phelan's No. 82.]

*Mr. Phelan to Captain Scott.*

CONSULATE GENERAL OF THE UNITED STATES, HALIFAX,  
*Digby, Nova Scotia, May 11, 1886.*

Captain SCOTT, *Fishery Officer,*  
*Commanding S. S. Lansdowne:*

SIR: It has been brought to my knowledge that certain officers and men of the S. S. Lansdowne boarded the American schooner David J. Adams on the coast of Nova Scotia, and by force took therefrom the master and crew of said schooner, and that the said American schooner, David J. Adams, is now in your possession and custody, and held by you as commander of the Canadian marine police against the owners and master thereof.

Therefore, it becomes my duty, as consul-general of the United States for the maritime provinces, to ask you to state in writing, fully and specifically, with as little delay as possible, why you detain such vessel, and refuse to restore her to the lawful owners and master.

I am, &c.,

M. H. PHELAN,  
*Consul-General United States.*

[Inclosure 2 in Mr. Phelan's No. 82.]

*Captain Scott to Mr. Phelan.*CANADIAN GOVERNMENT S. S. LANSDOWNE,  
Digby, Nova Scotia, May 11, 1886.

SIR: I am in receipt of your letter of this day's date, requiring to know why I have detained the American fishing schooner D. J. Adams, and in reply would beg of you to apply to the deputy minister of fisheries in Ottawa for an answer, as I am acting under instruction.

I have, &amp;c.,

P. A. SCOTT,  
*Captain Commanding the Marine Police.*The Hon. M. H. PHELAN,  
*Consul-General for the United States.*

[Inclosure 3 in Mr. Phelan's No. 82.]

*Protest of Captain Kenney, of the David J. Adams.*

*To Captain Scott, commanding the Marine Police, and all other persons whomsoever seizing, holding, or detaining the schooner David J. Adams:*

Take notice that the undersigned hereby protest and object against the illegal seizure and detention of said vessel and her appurtenances, and demand the immediate restoration of said vessel to the undersigned, the lawful master.

And further take notice that the owners of and parties interested in said vessel intend to hold the parties who seized said vessel, as well as those who may have her in their custody, or who may detain her, liable for all damages consequent upon their seizure and detention.

ALDEN KINNEY,  
*Master David J. Adams.*

DIGBY, May 12, 1886.

Countersigned and concurred in by  
M. H. PHELAN,  
*Consul-General of the United States.*

[Inclosure 4 in Mr. Phelan's No. 82.]

*Deposition of the captain and crew of the David J. Adams.*

In the matter of the seizure of the United States schooner David J. Adams, of Gloucester, now held by the Dominion of Canada.

We, the captain and crew of the schooner David J. Adams, of Gloucester, Mass., in the United States of America, depose and saith under oath, as follows: I, Captain Alden Kinney; I am 25 years old; occupation, seaman; citizen of the United States. What is your present occupation? Master of the David J. Adams. What is her tonnage? Sixty-six register. Owned by Capt. Jesse Lewis. We left Gloucester, Mass., for Eastport, Me., for bait on or about the 10th day of April last. We arrived at Eastport, Me., on the following Monday, April 12, and got bait and proceeded to the Banks. We fished for several days, say about twelve days, and set out for and returned to Eastport, Me., that being a central station as a general thing for fishermen's headquarters at this season of the year for bait and other supplies. We again left Eastport for the Banks and put into Digby Basin about 11 o'clock on the 6th day of May, and we anchored under Lower Granville. We got under way the next morning at about 5 o'clock, bound out. The reason we could not get out was on account of the wind dying away, and we drifted back with the tide. We sailed up off of Digby Town and tacked, anchoring off of or about Bear Island. This was about 10 o'clock in the forenoon. Not being satisfied with the place we layed we shifted further up the basin, say about two miles further. We again anchored there until 5 o'clock, got under way, and shifted to another part of the basin and anchored until Friday morning about 4 o'clock. We then got under way and started to go out of the basin into the Bay of Fundy. Shortly after we got under way a boat from the steamer lying off the harbor, which proved to be the steamer Lansdowne, of the Dominion service, was seen coming toward us and we continued our course as we were before we saw the boat coming. The boat caught up to us when we were about a mile and a half from our recent anchorage of the night. The officer on board the boat asked us where we hailed from, and the vessel's name and tonnage; captain's name and owner's, and

what we were there for, and if we had any bait in. Receiving my reply (captain's) the boat rowed away. We still continued on our course until we got into St. George's Channel (they called), and grounded at low water, and there remained aground for about two hours, and after floating the tide was too strong for us to proceed out of the basin. We were at that time again boarded by the same boat and officer of the Lansdowne, who searched our vessel. The officer, on boarding with armed men, said that he was ordered by Captain Scott to search the vessel, which they did by coming on board and examining the hold of the vessel and different parts of the deck. They stated to Captain Kinney that some herring was below in the hold, and we answered that they were ten days old. The officer of Lansdowne and boat returned to their ship. Afterwards the Lansdowne boat boarded us for the third time, and brought another officer, whom I understand was Captain Dakin, who also entered hold and examined the herring, and then returned to their vessel. Again for the fourth time the same officers and crew of the Lansdowne boarded us, who informed us that we would be held here in Digby for some time. We were ordered by the same officer to bring our vessel to Digby and to anchor as near as possible to the steamer Lansdowne, which order we obeyed. This was the morning of May 7. The same boat, after being towed up to the town by us, cast off from us also; the officer and crew in charge went on board his vessel. Soon after an officer boarded us and ordered us to lower our sails and await further orders. About four hours afterward Captain Scott ordered the hatches removed, and he examined the cargo, and returning to the deck of our vessel Captain Scott said he had seized us in the Queen's name. Then Captain Scott notified us that we might go on shore to the American consul, and said he would at once return with Lansdowne and the schooner David J. Adams to St. John, N. B. We remained on board our own vessel during that night under charge of five armed men of the Lansdowne's crew. Saturday morning early all of us and our captain, with the exception of three of our men, were ordered on board the Lansdowne. We were then taken to St. John and went on shore, according to the order of the night previous to go on shore. Our captain took the papers and articles belonging to the David J. Adams with him on shore. Our vessel was towed to St. John at the same time and fastened to the Lansdowne with chain cable, both lying at the wharf at St. John. The vessel was there on Sunday morning, when I was informed by an officer of the Lansdowne that they were going to remove her to Digby. I was told that I could return to Digby in the vessel if I chose, or otherwise take out my personal effects and that of the crew. The Lansdowne and our vessel then left St. John. On Wednesday, the 12th day of May, on our arrival in Digby, Captain Scott came to me as captain of the D. J. Adams and demanded her register of said vessel before I had landed from the steamboat, which I refused to give up.

Question. Captain, there is a charge that you concealed the name of your vessel by tacking canvas or by other means of covering the name on the stern of the vessel?

Captain Kinney answers that he denies the charge; it is not true. I never concealed nor attempted to conceal the name of the vessel.

Did you ever fish or attempt to fish in British waters during this season?

Captain answers that he never did; that he never saw the land from where I fished. Deep-sea fishing is the only fishing that we are engaged.

Did you ever buy bait or attempt to buy bait for the purpose of fishing in British waters?

No, sir; I did not.

Did you come into Digby Basin to buy bait for the purpose of fishing in British waters during this season?

Answer. No, I did not.

Did you purchase bait or attempt to purchase bait while at anchor above Bear River?

Answer. No, I did not.

ALDEN KINNEY,  
*Master.*

We, the undersigned seamen or crew of the schooner David J. Adams, of Gloucester, Mass., in the United States of America, being present and having heard the above testimony of Capt. Alden Kinney, and we all being under oath, do certify that the same is true to our best knowledge and belief and we know no other fact bearing on or in connection with this case.

SAMUEL HOOPER.  
JAMES SWINEBORG.  
JOHN BROWN.  
E. D. SIMMONS.  
JOSEPH BOUCHIN.  
FRANK ARNESEN.

ISAIAH ROBERTS.  
JOHN BEATON.  
ELROY PRIOR.  
FRED. FISCHER.  
JOSEPH HENLEY.  
CALVIN COOK.

Sworn and subscribed before me at Digby, Nova Scotia, May 13, 1886.

[SEAL.]

M. H. PHELAN,  
*Consul-General, United States.*



[Inclosure 5 in Mr. Phelan's No. 82.]

*Captain Scott to Mr. Phelan.*CANADIAN STEAMER LANSDOWNE,  
*Digby, May 12, 1886.*

SIR: In reply to your letter of the 11th instant, I am directed by the minister of marine and fisheries to state to you that the David J. Adams was seized for a violation of the Canadian customs act, and also for a violation of the imperial statute for entering a port for other than legal purposes.

I am, sir, your obedient servant,

P. N. SCOTT,  
*Captain and Fishery Commissioner.*

The Hon. M. H. PHELAN,  
*Consul-General, United States.*

No. 168.

*Mr. Bayard to Mr. Phelps.*

No. 310.]

DEPARTMENT OF STATE,  
*Washington, June 1, 1886.*

SIR: With reference to my instructions No. 289, of the 11th ultimo, and No. 303, of the same month, transmitting to you for your information copies of my recent notes to Sir Lionel West concerning the fisheries question, I now inclose herewith for your further information two copies of a note which I addressed on the 29th ultimo to Her Britannic Majesty's minister at this capital in relation to house of commons bill No. 136, now pending in the Dominion Parliament, entitled "An act further to amend the act respecting fishing by foreign vessels."

I am, &c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir L. West, May 29, 1886. For inclosure see No. 187, p. 380.

No. 169.

*Mr. Phelps to Mr. Bayard.*

No. 293.]

LEGATION OF THE UNITED STATES,  
*London, June 5, 1886. [Received June 14.]*

SIR: I have the honor to inclose herewith the copy of a note which I have this day addressed to the Earl of Rosebery, Her Majesty's principal secretary of state for foreign affairs, on the subject of the Canadian fisheries, embodying the substance of the views which, under instructions from the Department of State, I have already presented to his lordship orally in various interviews, and of the arguments adduced in support of the same.

I have, &c.,

E. J. PHELPS.

[Inclosure in Mr. Phelps's No. 293.]

*Mr. Phelps to Lord Rosebery.*LEGATION OF THE UNITED STATES,  
London, June 2, 1886.

**MY LORD:** Since the conversation I had the honor to hold with your lordship, on the morning of the 29th ultimo, I have received from my Government a copy of the report of the consul-general of the United States at Halifax, giving full details and depositions relative to the seizure of the David J. Adams, and the correspondence between the consul-general and the colonial authorities in reference thereto.

The report of the consul-general and the evidence annexed to it appear fully to sustain the point submitted to your lordship in the interview above referred to, touching the seizure of this vessel by the Canadian officials.

I do not understand it to be claimed by the Canadian authorities that the vessel seized had been engaged or was intending to engage in fishing within any limit prohibited by the treaty of 1818.

The occupation of the vessel was exclusively deep-sea fishing, a business in which it had a perfect right to be employed. The ground upon which the capture was made was that the master of the vessel had purchased of an inhabitant of Nova Scotia, near the port of Digby, in that province, a day or two before, a small quantity of bait to be used in fishing in the deep sea, outside the three-mile limit.

The question presented is whether, under the terms of the treaty and the construction placed upon them in practice for many years by the British Government, and in view of the existing relations between the United States and Great Britain, that transaction affords a sufficient reason for making such a seizure and for proceeding under it to the confiscation of the vessel and its contents.

I am not unaware that the Canadian authorities, conscious, apparently, that the affirmative of this proposition could not be maintained, deemed it advisable to supplement it with a charge against the vessel of a violation of the Canadian customs act of 1883, in not reporting her arrival at Digby to the customs officer. But this charge is not the one on which the vessel was seized, or which must now be principally relied on for its condemnation, and standing alone could hardly, even if well founded, be the source of any serious controversy. It would be at most, under the circumstances, only an accidental and purely technical breach of a custom-house regulation, by which no harm was intended, and from which no harm came, and would in ordinary cases be easily condoned by an apology, and perhaps the payment of costs.

But trivial as it is, this charge does not appear to be well founded in point of fact. Digby is a small fishing settlement and its harbor not defined. The vessel had moved about and anchored in the outer part of the harbor, having no business at, or communication with Digby, and no reason for reporting to the officer of customs. It appears by the report of the consul-general to be conceded by the customs authorities there that fishing vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port, and made no landing; and that no seizure had ever before been made or claimed against them for so doing.

Can it be reasonably insisted under these circumstances that by the sudden adoption, without notice, of a new rule, a vessel of a friendly nation should be seized and forfeited for doing what all similar vessels had for so long a period been allowed to do without question?

It is sufficiently evident that the claim of a violation of the customs act was an afterthought, brought forward to give whatever added strength it might to the principal claim on which the seizure had been made.

Recurring, then, to the only real question in the case, whether the vessel is to be forfeited for purchasing bait of an inhabitant of Nova Scotia, to be used in lawful fishing, it may be readily admitted that if the language of the treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port "for any purpose whatever" except to obtain wood or water, to repair damages, or to seek shelter. Whether it would be liable to the extreme penalty of confiscation for a breach of this prohibition in a trifling and harmless instance might be quite another question.

Such a literal construction is best refuted by considering its preposterous consequences. If a vessel enters a port to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence, it would, upon this construction, be held to violate the treaty stipulations maintained between two enlightened maritime and most friendly nations, whose ports are freely open to each other in all other places and under all other circumstances.

If a vessel is not engaged in fishing she may enter all ports; but if employed in fishing, not denied to be lawful, she is excluded, though on the most innocent errand. She may buy water, but not food or medicine; wood, but not coal. She may repair rigging, but not purchase a new rope, though the inhabitants are desirous to sell it. If she even entered the port (having no other business) to report herself to the custom-house, as the vessel in question is now seized for not doing, she would be equally within the interdiction of the treaty. If it be said these are extreme instances of violation of the treaty not likely to be insisted on, I reply that no one of them is more extreme than the one relied upon in this case.

I am persuaded that your lordship will, upon reflection, concur with me that an intention so narrow, and in its result so unreasonable and so unfair, is not to be attributed to the high contracting parties who entered into this treaty.

It seems to me clear that the treaty must be construed in accordance with those ordinary and well-settled rules applicable to all written instruments, which without such salutary assistance must constantly fail of their purpose. By these rules the letter often gives way to the intent, or rather is only used to ascertain the intent.

The whole document will be taken together, and will be considered in connection with the attendant circumstances, the situation of the parties, and the object in view, and thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended.

Upon these principles of construction the meaning of the clause in question does not seem doubtful. It is a treaty of friendship and not of hostility. Its object was to define and protect the relative rights of the people of the two countries in these fisheries, not to establish a system of non-intercourse or the means of mutual and unnecessary annoyance. It should be judged in view of the general rules of international comity and of maritime intercourse and usage, and its restrictions considered in the light of the purposes they were designed to serve.

Thus regarded it appears to me clear that the words "for no other purpose whatever," as employed in the treaty, mean no other purposes inconsistent with the provisions of the treaty, or prejudicial to the interests of the provinces or their inhabitants, and were not intended to prevent the entry of American fishing vessels into Canadian ports for innocent and mutually beneficial purposes, or unnecessarily to restrict the free and friendly intercourse customary between all civilized maritime nations, and especially between the United States and Great Britain. Such, I cannot but believe, is the construction that would be placed upon this treaty by any enlightened court of justice.

But even were it conceded that if the treaty was a private contract, instead of an international one, a court in dealing with an action upon it might find itself hampered by the letter from giving effect to the intent, that would not be decisive of the present case.

The interpretation of treaties between nations in their intercourse with each other proceeds upon broader and higher considerations. The question is not what is the technical effect of words, but what is the construction most consonant to the dignity, the just interests, and the friendly relations of the sovereign powers. I submit to your lordship that a construction so harsh, so unfriendly, so unnecessary, and so irritating as that set up by the Canadian authorities is not such as Her Majesty's Government has been accustomed either to accord or to submit to. It would find no precedent in the history of British diplomacy, and no provocation in any action or assertion of the Government of the United States.

These views derive great, if not conclusive, force from the action of the British Parliament on the subject, adopted very soon after the treaty of 1818 took effect, and continued without change to the present time.

An act of Parliament (59 George III, chap. 38) was passed June 14, 1819, to provide for carrying into effect the provisions of the treaty. After reciting the terms of the treaty, it enacts (in substance) that it shall be lawful for His Majesty by orders in council to make such regulations and to give such directions, orders, and instructions to the governor of Newfoundland or to any officer or officers in that station, or to any other persons "as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of said convention *with relation to the taking, drying, and curing of fish by inhabitants of the United States of America*, in common with British subjects within the limits set forth in the aforesaid convention."

It further enacts that any foreign vessel engaged in fishing, or preparing to fish, within three marine miles of the coast (not authorized to do so by treaty) shall be seized or forfeited upon prosecution in the proper court.

It further provides as follows:

"That it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbors of his Britannic Majesty's dominions in America as are last mentioned for the purpose of shelter and repairing damages therein and of purchasing wood and of obtaining water, and for no other purpose whatever, subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the



aid United States from taking, drying, or curing fish in the said bays or harbors, or in any other manner whatever abusing the said privileges by the said treaty and this act reserved to them, and as shall for that purpose be imposed by an order or orders to be from time to time made by His Majesty in council under the authority of this act, and by any regulations which shall be issued by the governor or person exercising the office of governor in any such parts of His Majesty's dominions in America, under or in pursuance of any such an order in council as aforesaid."

It further provides as follows:

"That if any person or persons upon requisition made by the governor of Newfoundland, or the person exercising the office of governor, or by any governor or person exercising the office of governor, in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such governor, or person exercising the office of governor, in the execution of any orders or instructions from His Majesty in council, shall refuse to depart from such bays or harbors; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act; every such person so refusing or otherwise offending against this act shall forfeit the sum of £200, to be recovered, &c."

It will be perceived from these extracts, and still more clearly from a perusal of the entire act, that while reciting the language of the treaty in respect to the purposes for which American fishermen may enter British ports, it provides no forfeiture or penalty for any such entry unless accompanied either (1) by fishing or preparing to fish within the prohibited limits, or (2) by the infringement of restrictions that may be imposed by orders in council to prevent such fishing or the drying or curing of fish, or the abuse of privileges reserved by the treaty, or (3) by a refusal to depart from the bays or harbors upon proper requisition.

It thus plainly appears that it was not the intention of Parliament, nor its understanding of the treaty, that any other entry by an American fishing vessel into a British port should be regarded as an infraction of its provisions, or as affording the basis of proceedings against it.

No other act of Parliament for the carrying out of this treaty has ever been passed. It is unnecessary to point out that it is not in the power of the Canadian Parliament to enlarge or alter the provisions of the act of the Imperial Parliament, or to give to the treaty either a construction or a legal effect not warranted by that act.

But until the effort which I am informed is now in progress in the Canadian Parliament for the passage of a new act on the subject, introduced since the seizures under consideration, I do not understand that any statute has ever been enacted in that Parliament which attempts to give any different construction of effect to the treaty from that given by the act of 59 George III.

The only provincial statutes which, in the proceedings against the David J. Adams, that vessel has thus far been charged with infringing are the colonial acts of 1868, 1870, and 1883. It is therefore fair to presume that there are no other colonial acts applicable to the case, and I know of none.

The act of 1868, among other provisions not material to this discussion, provides for a forfeiture of foreign vessels "found fishing, or preparing to fish, or to have been fishing, in British waters within three marine miles of the coast," and also provides a penalty of \$400 against a master of a foreign vessel within the harbor who shall fail to answer questions put in an examination by the authorities. No other act is by this statute declared to be illegal; and no other penalty or forfeiture is provided for.

The very extraordinary provisions in this statute for facilitating forfeitures and embarrassing defense, or appeal from them, not material to the present case, would, on a proper occasion, deserve very serious attention.

The act of 1883 has no application to the case, except upon the point of the omission of the vessel to report to the customs officer already considered.

It results, therefore, that at the time of the seizure of the David J. Adams and other vessels there was no act whatever, either of the British or colonial parliaments, which made the purchase of bait by those vessels illegal, or provided for any forfeiture, penalty, or proceedings against them for such a transaction, and even if such purchase could be regarded as a violation of that clause of the treaty which is relied on, no law existed under which the seizure could be justified. It will not be contended that custom-house authorities or colonial courts can seize and condemn vessels for a breach of the stipulations of a treaty when no legislation exists which authorizes them to take cognizance of the subject, or invests them with any jurisdiction in the premises. Of this obvious conclusion the Canadian authorities seem to be quite aware. I am informed that since the seizures they have pressed or are pressing through the Canadian parliament in much haste an act which is designed for the first time in the history of the legislation under this treaty to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor.

What the effect of such an act will be in enlarging the provisions of an existing treaty between the United States and Great Britain need not be considered here. The question under discussion depends upon the treaty and upon such legislation warranted by the treaty as existed when the seizures took place.

The practical construction given to the treaty down to the present time has been in entire accord with the conclusions thus deduced from the act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary.

On the 26th of May, 1870, Mr. Thornton, the British minister at Washington, communicated officially to the Secretary of State of the United States copies of the orders addressed by the British Admiralty to Admiral Wellesley, commanding Her Majesty's naval forces on the North American station, and of a letter from the colonial department to the foreign office, in order that the Secretary might "see the nature of the instructions to be given to Her Majesty's and the Canadian officers employed in maintaining order at the fisheries in the neighborhood of the coasts of Canada." Among the documents thus transmitted is a letter from the foreign office to the secretary of the Admiralty, in which the following language is contained:

"The Canadian Government has recently determined, with the concurrence of Her Majesty's ministers, to increase the stringency of the existing practice of dispensing with the warnings hitherto given, and seizing at once any vessel detected in violating the law.

"In view of this change and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their lordships to instruct the officers of Her Majesty's ships employed in the protection of the fisheries that they are not to seize any vessel unless it is evident and can be clearly proved that the offense of fishing has been committed and the vessel itself captured within three miles of land."

In the letter from the lords of the Admiralty to Vice-Admiral Wellesley of May 5, 1870, in accordance with the foregoing request, and transmitting the letter above quoted from, there occurs the following language:

"My lords desire me to remind you of the extreme importance of commanding officers of the ships selected to protect the fisheries exercising the utmost discretion in carrying out their instructions, paying special attention to Lord Granville's observation *that no vessel should be seized unless it is evident and can be clearly proved that the offense of fishing has been committed, and that the vessel is captured within three miles of land.*"

Lord Granville, in transmitting to Sir John Young the aforesaid instructions, makes use of the following language:

"Her Majesty's Government do not doubt that your ministers will agree with them as to the propriety of these instructions, and will give corresponding instructions to the vessels employed by them."

These instructions were again officially stated by the British minister at Washington to the Secretary of State of the United States in a letter dated June 11, 1870.

Again, in February, 1871, Lord Kimberly, colonial secretary, wrote to the governor-general of Canada as follows:

"The exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and of obtaining water, might be warranted by the letter of the treaty of 1818, and by the terms of the imperial act 59 George III, chap. 38, but Her Majesty's Government feel bound to state that it seems to them an extreme measure, inconsistent with the general policy of the Empire, and they are disposed to concede this point to the United States Government under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

And in a subsequent letter from the same source to the governor-general, the following language is used:

"I think it right, however, to add that the responsibility of determining what is the true construction of a treaty made by Her Majesty with any foreign power must remain with Her Majesty's Government, and that the degree to which this country would make itself a party to the strict enforcement of the treaty rights may depend not only on the literal construction of the treaty, but on the moderation and reasonableness with which these rights are asserted."

I am not aware that any modification of these instructions or any different rule from that therein contained has ever been adopted or sanctioned by Her Majesty's Government.

Judicial authority upon this question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known. But in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait, or of any other supplies. On the hearing before the Halifax Fisheries Commission in 1877 this question was



discussed, and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty, either of fishing, or preparing to fish, within the prohibited limit. And in the case of the *White Pawn*, tried in the admiralty court of New Brunswick before Judge Hazen in 1870, I understand it to have been distinctly held that the purchase of bait, unless proved to have been in preparation for illegal fishing, was not a violation of the treaty, nor of any existing law, and afforded no ground for proceedings against the vessel.

But even were it possible to justify on the part of the Canadian authorities the adoption of a construction of the treaty entirely different from that which has always heretofore prevailed, and to declare those acts criminal which have hitherto been regarded as innocent, upon obvious grounds of reason and justice, and upon common principles of comity to the United States Government, previous notice should have been given to it or to the American fishermen of the new and stringent instructions it was intended to enforce.

If it was the intention of Her Majesty's Government to recall the instructions which I have shown had been previously and so explicitly given relative to the interference with American vessels, surely notice should have been given accordingly.

The United States have just reason to complain, even if these restrictions could be justified by the treaty or by the acts of Parliament passed to carry it into effect, that they should be enforced in so harsh and unfriendly a manner without notice to the Government of the change of policy, or to the fishermen of the new danger to which they were thus exposed.

In any view, therefore, which it seems to me can be taken of this question, I feel justified in pronouncing the action of the Canadian authorities in seizing and still retaining the *David J. Adams* to be not only unfriendly and discourteous, but altogether unwarrantable.

The seizure was much aggravated by the manner in which it was carried into effect. It appears that four several visitations and searches of the vessel were made by boats from the Canadian steamer *Lansdowne*, in Annapolis Basin, Nova Scotia. The *Adams* was finally taken into custody and carried out of the Province of Nova Scotia, across the Bay of Fundy, and into the port of St. John, New Brunswick, and without explanation or hearing, on the following Monday, May 10, taken back by an armed crew to Digby, Nova Scotia. That, in Digby, the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the *David J. Adams* and of the United States consul-general to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the provincial official in charge. Nor was the United States consul-general able to learn from the commander of the *Lansdowne* the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

From all the circumstances attending this case, and other recent cases like it, it seems to me very apparent that the seizure was not made for the purpose of enforcing any right or redressing any wrong. As I have before remarked, it is not pretended that the vessel had been engaged in fishing, or was intending to fish in the prohibited waters, or that it had done or was intending to do any other injurious act. It was proceeding upon its regular and lawful business of fishing in the deep sea. It had received no request, and of course could have disregarded no request, to depart, and was, in fact, departing when seized; nor had its master refused to answer any questions put by the authorities. It had violated no existing law, and had incurred no penalty that any known statute imposed.

It seems to me impossible to escape the conclusion that this and other similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment. And the injury, which would have been a serious one, if committed under a mistake, is very much aggravated by the motives which appear to have prompted it.

I am instructed by my Government earnestly to protest against these proceedings as wholly unwarranted by the treaty of 1818, and altogether inconsistent with the friendly relations hitherto existing between the United States and Her Majesty's Government; to request that the *David J. Adams*, and the other American fishing vessels now under seizure in Canadian ports, be immediately released, and that proper orders may be issued to prevent similar proceedings in the future. And I am also instructed to inform you that the United States will hold Her Majesty's Government responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure, detention, or sale of their vessels lawfully within the territorial waters of British North America.

The real source of the difficulty that has arisen is well understood. It is to be found in the irritation that has taken place among a portion of the Canadian people on account of the termination by the United States Government of the treaty of Washington on the 1st of July last, whereby fish imported from Canada into the



United States, and which so long as that treaty remained in force was admitted free, is now liable to the import duty provided by the general revenue laws, and the opinion appears to have gained ground in Canada that the United States may be driven, by harassing and annoying their fishermen, into the adoption of a new treaty by which Canadian fish shall be admitted free.

It is not necessary to say that this scheme is likely to prove as mistaken in policy as it is indefensible in principle. In terminating the treaty of Washington the United States were simply exercising a right expressly reserved to both parties by the treaty itself, and of the exercise of which by either party neither can complain. They will not be coerced by wanton injury into the making of a new one. Nor would a negotiation that had its origin in mutual irritation be promising of success. The question now is, not what fresh treaty may or might be desirable, but what is the true and just construction, as between the two nations, of the treaty that already exists.

The Government of the United States, approaching this question in the most friendly spirit, cannot doubt that it will be met by Her Majesty's Government in the same spirit, and feels every confidence that the action of Her Majesty's Government in the premises will be such as to maintain the cordial relations between the two countries that have so long happily prevailed.

I have the honor to be, &c.,

E. J. PHELPS.

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No. 170.

*Mr. Bayard to Mr. Phelps.*

No. 328.]

DEPARTMENT OF STATE,  
Washington, June 18, 1886.

SIR; I have received and read with much satisfaction your No. 293 of the 5th instant, inclosing a copy of a note addressed by you on that day to Lord Rosebery, in reference to the seizures of American fishing vessels in Canadian waters, and other interference with our commercial rights.

The views and arguments you adduce are fully in accord with the instructions already sent you, and are so ably advanced and enforced that I have for the present, and pending Lord Rosebery's reply, nothing further to suggest on these points.

I now transmit for your information a copy of a note addressed by me, on the 14th instant, to Sir Lionel West, on the subject of certain verbal notifications not to approach the coasts of Nova Scotia, which, as I have been informed by our consul-general at Halifax, were given to four of our fishing vessels by the subcollector of customs at Canso, and the information from the collector at Halifax that no American fishing vessels would be permitted to land fish at that port for transportation in bond across the province.

In reply to my note, Sir Lionel West informed me that the subject has been brought by him to the notice of Her Majesty's Government.

My notes of the 10th, 20th, and 29th of May last to Sir Lionel West continue without reply, and this, I suppose, is one of the serious impediments to prompt and practical exchange of views which results from the triangular attitude of the United States, the imperial Government of Great Britain, and the American dependencies of the latter power, towards all questions in which the interests of the provinces are involved.

The last note of the British minister, stating that he has brought the attention of Her Majesty's Government to the questions raised by the action of provincial officials will, I hope, be productive of authoritative expression, and afford some solid basis for our judgment and progres-

sive action, which has hitherto been so delayed from the somewhat anomalous relations of the Canadian authorities towards a convention to which they are not actual or responsible parties.

I am, &c.,

T. F. BAYARD.

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[Inclosure.]

Mr. Bayard to Sir L. West, June 14, 1886. For inclosure see No. 192, p. 383.

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No. 171.

*Mr. Bayard to Mr. Phelps.*

No. 329.]

DEPARTMENT OF STATE,  
Washington, June 18, 1886.

SIR: With reference to previous correspondence concerning the fisheries question, I transmit to you herewith a copy of a dispatch from our consul at Halifax, in relation to the recent instructions to Canadian officials concerning American fishing vessels.

I am, &c.,

T. F. BAYARD.

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[Inclosure in No. 329.]

*Mr. Phelan to Mr. Porter.*

No. 85.]

UNITED STATES CONSULATE-GENERAL,  
Halifax, June 15, 1886. [Received June 18.]

SIR: I have the honor to report that I sent with dispatch No. 83, dated May 27, 1886, a circular issued by J. Johnson, Esq., Canadian commissioner of customs, known as Circular No. 371, dated May 7, 1886, containing instructions to customs collectors concerning foreign fishing vessels. I now inclose herewith a confidential circular of the same date and number issued by the same officer, with a note saying "that the confidential circular was to be substituted for the one of the same date and number previously received."

It will be seen by comparing the circulars that the two last paragraphs in the first circular issued are stricken out and the following substituted in lieu thereof:

"Having reference to the above you are requested to furnish every foreign fishing vessel, boat, or fisherman found within three marine miles from shore with a copy of the *warning* inclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or, if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board such vessel and at once telegraph the facts to the fisheries department at Ottawa and await instructions."

Everything about shipping crews, purchasing supplies, and trading is eliminated in the confidential circular.

I am, &c.,

M. H. PHELAN,  
Consul-General.

[Inclosure in Mr. Phelan's No. 85.]

*Confidential Circular No. 371.*CUSTOMS DEPARTMENT,  
Ottawa, May 7, 1886.

SIR: The Government of the United States having by notice terminated article 18 to 25, both inclusive, and article 30, known as the fishery articles of the Washington treaty, attention is called to following provision of the convention between the United States and Great Britain, signed at London on the 20th October, 1818:

"ARTICLE 1. Whereas, differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors and creeks, of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America, not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the act of the Parliament of Canada, cap. 61 of the acts of 1868, entitled "An act respecting fishing by foreign vessels":

(2) "Any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board as long as she may remain within such place or distance."

(3) "If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit \$100; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

(4) "All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$500, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."



Having reference to the above, you are requested to furnish any foreign fishing vessels, boats, or fishermen found within three marine miles of the shore, within your district, with a printed copy of the "warning" inclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or, if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such "warning," you will please place an officer on board such vessel and at once telegraph the facts to the fisheries department at Ottawa and await instructions.

J. JOHNSON,  
*Commissioner of Customs.*

No. 172.

*Mr. Bayard to Mr. Phelps.*

No. 369.]

DEPARTMENT OF STATE,  
*Washington, July 29, 1886.*

SIR: I transmit to you, herewith, copies of the President's message of the 24th instant, to the Senate, relative to seizures and detentions of American vessels in Canadian waters.

I am, &c.,

T. F. BAYARD.

[Inclosure in No. 369.—Senate Ex. Doc. No. 217, Forty-ninth Congress, first session.]

*Message from the President of the United States, transmitting, in response to Senate resolutions of May 10 and July 10, 1886, a report of the Secretary of State relative to seizure and detentions of United States vessels in Canadian waters.*

JULY 24, 1886.—Read and referred to the Committee on Foreign Relations and ordered to be printed

*To the Senate of the United States :*

In response to the resolutions of the Senate dated, respectively, May 10 and July 10, 1886, touching alleged seizures and detentions of vessels of the United States in British North American waters, I transmit herewith a report of the Secretary of State, with accompanying papers.

GROVER CLEVELAND.

EXECUTIVE MANSION,  
*Washington, July 24, 1886.*

*To the President :*

Responding to the accompanying resolutions, of the respective dates of May 10 and July 10, 1886, adopted by the Senate of the United States, and which were referred by the President to this Department, the undersigned, Secretary of State, has the honor to reply :

That the list hereunto appended gives all the cases of seizure or detention of American vessels in foreign ports since January 1, 1883, of which the Department of State has been informed; and, as it will be observed, no other cases of such seizure or detention have occurred than those in the ports of the Dominion of Canada, and under the alleged authority of the officials of that Government.

All of the vessels so seized or detained were vessels licensed for fishing under the laws of the United States.

They have all been released excepting the schooner David J. Adams, of Gloucester, Mass., which is still held in custody at Digby, Nova Scotia, her owners not having sought to procure her release by giving bond.

The period for which each vessel was detained and the terms upon which they were respectively released are stated in the appended list.

Instantly upon receiving authentic information of an alleged seizure from the owners of the vessels or their agents, or from the consular officers of the United States in Canada, this Department gave instructions to the United States consular officers to

make full and careful investigation of the facts in each case; and wherever an infraction of treaty rights or the commercial rights and privileges of citizens of the United States appeared to have occurred, representation was promptly made to Her Britannic Majesty's minister at this capital, calling for redress, and notification given of demand for compensation for all loss and injury to the vessels in question and their owners.

In order properly to assert and maintain the rights of our citizens and our international rights under conventions and by the law of nations which might be brought in question by these proceedings and by the action of the Canadian Government, the professional services of two gentlemen learned in the law—Mr. George W. Biddle, of the city of Philadelphia, and Mr. William L. Putnam, of the city of Portland, in Maine—were retained by the Executive; and since the 20th of May last these gentlemen have bestowed their careful consideration upon the circumstances and the law in connection therewith in each case.

Proceedings have been commenced in the vice-admiralty court at Halifax, Nova Scotia, in the name of Her Majesty the Queen as plaintiff, against the schooner David J. Adams and the schooner Ella M. Doughty in both of which cases the complaint is substantially the same. Copy is herewith appended of the complaint signed by the solicitor for the attorney-general of the Dominion of Canada against the Ella M. Doughty, which sets forth at length the alleged grounds for the seizure and detention of that vessel.

Concurrently with these events, correspondence has begun and is still proceeding between this Department and the British minister at this capital, and also between the minister of the United States in London and the foreign office of Her Britannic Majesty's Government, to obtain satisfactory recognition and enforcement of our rights under treaty and international law and the laws and commercial usages of both countries, which are brought in question by the action of the Canadian authorities in making the seizures and detentions of American fishing vessels herein referred to and describe.

Pending this correspondence, which it is believed must soon terminate in an amicable settlement mutually just and honorable, and, therefore, satisfactory to both countries and their inhabitants, the undersigned is unable to recommend the President to communicate its contents in its present incomplete status, believing that to do so would not be compatible with the public interests as connected with the transactions referred to.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,  
Washington, July 24, 1886.

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[List of inclosures.]

1. Resolution of the Senate of the United States, May 10, 1886.
2. Resolution of the Senate of the United States, July 10, 1886.
3. List of vessels of the United States seized or detained since January 1, 1886.
4. Text of the complaint filed by Her Britannic Majesty's Government against the Ella M. Doughty (with a letter from William L. Putnam, dated July 13, 1886).

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No. 1.

IN THE SENATE OF THE UNITED STATES,  
May 10, 1886.

*Resolved*, That the President be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, any information in the possession of the Government concerning the alleged seizure of the United States fishing vessel David J. Adams while engaged in lawful commerce in one of the ports in the Dominion of Canada, and what measures, if any, have been taken to protect fishing vessels of the United States while engaged in lawful commerce in the ports of the Dominion of Canada.

Attest:

ANSON G. MCCOOK,  
*Secretary.*

By CHAS. W. JOHNSON,  
*Chief Clerk.*

## . No. 2.

IN THE SENATE OF THE UNITED STATES,  
July 10, 1886.

*Resolved*, That the President of the United States be requested, so far as in his opinion it may not be inconsistent with the public interest, to inform the Senate of all facts in his possession or that of the Department of State in regard to the seizure or detention in any foreign ports of any American vessels since January 1, 1886, and the pretext or alleged causes for such seizure, and all correspondence relating to the same, and what efforts have been made to procure redress for such seizures, and to prevent the recurrence thereof.

Attest:

ANSON G. MCCOOK,  
*Secretary.*

## No. 3.

*List of American fishing vessels seized by the authorities of Canada in the year 1886.*

| Vessel.                  | Home port.           | Master.              | Seized.        | Where seized.      |
|--------------------------|----------------------|----------------------|----------------|--------------------|
| * David J. Adams .....   | Newburyport, Mass. . | Aldon Kinney .....   | 1886.<br>May 7 | Digby, N. S.       |
| † Ella M. Doughty .....  | Kennebunk, Me. ....  | Warren A. Doughty .. | May 17         | Englishtown, C. B. |
| ‡ City Point .....       | Booth Bay, Me. ....  | Stephen Keene .....  | July 3         | Shelburne, N. S.   |
| ‡ George W. Cushing ..   | Bath, Me. ....       | C. B. Jewett .....   | July 3         | Do.                |
| ‡ C. B. Harrington ..... | Portland, Me. ....   | John Frellick .....  | July 3         | Do.                |

\* Owners refuse to bond. Vessel still in custody.

† Released June 19. Bail, \$3400. Proceedings for remission.

‡ Released on payment of \$400, alleged fine.

*List of American fishing vessels detained by the authorities of Canada in the year 1886.*

| Vessel.               | Home port.        | Master.     | Date.                       | Released.      |
|-----------------------|-------------------|-------------|-----------------------------|----------------|
| * Joseph Storey ..... | Essex, Mass. .... | .....       | April 24, 1886, at Baddeck  | Apr. 25, 1886. |
| * Matthew Keany ..... | Bath, Me. ....    | .....       | .....                       | .....          |
| Hereward .....        | Essex, Mass. .... | McDonald .. | July 3, 1886, at Canso..... | .....          |

\* Detained 24 hours.

## No. 4.

[Inclosure A.]

## No. 473. In the vice-admiralty court at Halifax.

HER MAJESTY THE QUEEN, PLAINTIFF, }  
*against*  
 THE SHIP OR VESSEL ELLA M. DOUGHTY }  
 AND HER CARGO, DEFENDANTS. }

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, of the one part, and the United States of America, of the other part, made on the 20th day of October, 1818, and for violation of the act of the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter 38 of the acts of the said last-named Parliament, made and passed in the said year. Also, for forfeiture of the said



vessel and her cargo for violation of chapter 61 of the acts of the Parliament of the Dominion of Canada, made and passed in the year 1868, and of chapter 15 of the acts of the said Parliament, passed and made in the year 1870, and of chapter 23 of the acts of the said Parliament, made and passed in the year 1871.

Writ issued on the 20th day of May, A. D. 1886.

1. A certain convention between his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, and the United States of America was made and signed at London on the 20th day of October, 1818, and by the first article thereof after that differences had arisen respecting the liberty claimed by the said United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of his Britannic Majesty's domains in America, it was agreed between the high contracting parties that the inhabitants of the said United States should have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, and from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands; and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of exclusive rights of the Hudson Bay Company; and that the American fishermen should also have liberty forever to dry and cure fish on any of the unsettled harbors and creeks of the southern part of the coast of Newfoundland, and there above described and of the coast of Labrador; but so soon as the same or any portion thereof should be settled it should not be lawful for the said fishermen to dry and cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground, and the said United States thereby renounced forever any liberty theretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever. But they should be under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them.

2. That a certain act of the Parliament of the United Kingdom of Great Britain and Ireland was made and passed in the fifty-ninth year of the reign of his late Majesty King George the Third, being chapter 38 of the acts of the said Parliament, made and passed in the fifty-ninth year of the reign of his said late Majesty King George the Third, and entitled "An act to enable his Majesty to make regulations with respect to the taking and curing of fish on certain parts of the coast of Newfoundland, Labrador, and his Majesty's other possessions in North America according to a convention made between his Majesty and the United States of America"

3. That on the 29th day of March, A. D. 1867, a certain other act of the Parliament of the United Kingdom of Great Britain and Ireland was made, and being chapter 3 of the acts of the said Parliament passed in the thirtieth and thirty-first years of the reign of her present Majesty Victoria, Queen of the United Kingdom of Great Britain and Ireland, and being entitled "An act for the union of Canada, Nova Scotia, and New Brunswick and the government thereof, and for purposes connected therewith," which said act is cited and known as the British North America act of 1867.

4. That a certain act of the Parliament of Canada was made and passed in the thirty-first year of the reign of her said Majesty Queen Victoria, being chapter 61 of the acts of the said Parliament made and passed in the year 1868, and being entitled "An act respecting fishing by foreign vessels." And a certain other act of the Parliament of Canada was made and passed in the thirty-third year of the reign of her said Majesty Queen Victoria, being chapter 15 of the acts of the Parliament made and passed in the year 1870, and being entitled "An act to amend the act respecting fishing by foreign vessels." And in the thirty-fourth year of the reign of Her Majesty Queen Victoria a certain other act of said Parliament of Canada, being chapter 15 of the acts of the said Parliament of Canada, was made and passed, being entitled "An act further to amend the act respecting fishing by foreign vessels," was made and passed, being chapter 23 of the acts of the said Parliament made and passed in 1871.

5. That the said convention and the said several acts hereinbefore mentioned were and are still in full force and effect.

6. The harbor of St. Anne's, situate in the county of Victoria, in the Province of Nova Scotia, together with its outlet to the Bay of St. Anne's, and also the said Bay of St. Anne's, and hereinafter designated as the bay and harbor of St. Anne's, are a portion of the dominions in America formerly of his late Majesty George the Third, King

of the United Kingdom of Great Britain and Ireland, and now of Her Majesty Queen Victoria, Queen of the United Kingdom of Great Britain and Ireland, and not included or lying on that part of the southern coast of Newfoundland, and which extends [from] Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, and from the said cape to the Quirpon Islands, on the shores of the Magdalen Islands, or on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast.

7. That the said ship Ella M. Doughty, whereof one Warren A. Doughty, who was not a natural-born subject of Her Majesty, was or is master, is a foreign ship or vessel not navigated according to the laws of Great Britain and Ireland, or according to the laws of Canada, but was and is a ship of the United States of America owned by foreigners; that is to say, by persons residing in and being citizens of the United States of America, where the said ship or vessel was built and enrolled, and the said ship or vessel Ella M. Doughty was at the time hereinafter mentioned licensed and permitted to carry on the fisheries under and in pursuance of the acts of the United States of America, and was engaged in the prosecution of the fisheries and on a fishing voyage, and was and is without a license to fish or any license whatsoever in that behalf from the Government of Canada or of Nova Scotia under the statutes of Canada or of Nova Scotia in that behalf.

8. Between the 10th and 17th days of May, 1836, the said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, did in and with the said ship or vessel Ella M. Doughty enter into the bay and harbor of St. Anne's aforesaid within three marine miles of the shore of said bay and harbor of St. Anne's, and within three miles of the coasts, bays, creeks, and harbors of those portions of the dominions in America of his said late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria not included in the limits specified and defined in the said first article of the said convention and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel of bait to be used in fishing and of fresh fish to be fished for, taken, and caught by and upon the said vessel and by the master, officers, and crew thereof, and did procure such bait wherewith to fish, and such ice for the purposes aforesaid, and did so enter for other purposes than for the purposes of shelter or repairing damages, or of purchasing wood or of obtaining water, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized within three marine miles of the coast or shores of the said bay and harbor of St. Anne's by Donald McAuley and Lanchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for the breach or violation of the said convention and of the said several acts.

9. The said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, did, between the 10th and 17th days of May, 1836, and subsequently, in the said ship or vessel Ella M. Doughty, in the bay and harbor of St. Anne's aforesaid, did, and while he and they and the said ship or vessel Ella M. Doughty were within three marine miles of the coasts or shores of the said bay and harbor of St. Anne's, and within three marine miles of the coasts, shores, bays, creeks, and harbors of those portions of the dominions in America of his said late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria not included within the limits specified and defined in the said first article of the said convention and set out and recited in the said first paragraph hereof, fish for fish and take fish, and did dry and cure fish, and were preparing to fish within the meaning of the said convention, and of the said several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the said acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within three marine miles of the coast or shores of the said bay and harbor of St. Anne's, by Donald McAuley and Lanchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for violation of the said convention and of the said several acts.

10. The said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, were between the said 10th and 17th days of May, 1836, and subsequently, in the said ship or vessel Ella M. Doughty in the bay and harbor of St. Anne's aforesaid, and while he and they were within 3 marine miles of the coasts, shores, bays, creeks, and harbors of those portions of the dominions in America of his late Majesty King George the Third, being now the dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention, and set out and recited in the first paragraph hereof, preparing to fish within the meaning of the convention and of the said convention and of the several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the several acts, and of the said vessel Ella M. Doughty and her cargo were thereupon seized



within 3 marine miles of the coasts or shores of the said bay and harbor of St. Anne's by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach or violation of the said convention and of the said several acts.

11. Between the said 10th and 17th days of May, and subsequently, in the said bay and harbor of St. Anne's within 3 marine miles of the shore thereof, and within 3 marine miles of the coasts, bays, creeks, and harbors of those portions or parts of the dominions in America of his late Majesty King George the Third being now the dominion in America of her present Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention, and set out and recited in the first paragraph hereof, the said ship or vessel Ella M. Doughty was found to be fishing within the said distance of 3 marine miles of the said coasts, bays, creeks, and harbors, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 marine miles of the coasts or shores of said bay and harbor of St. Anne's, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach or violation of the said convention and of the said several acts.

12. Between the said 10th and 17th days of May, 1886, and subsequently thereto, in the said bay and harbor of St. Anne's, within 3 marine miles of the shores thereof and within 3 marine miles of the coasts, bays, creeks, and harbors of those parts or portions of the dominions in America of his said late Majesty King George the Third, being now the dominions in America of her present Majesty Queen Victoria, not included in the limits specified and defined in the said first article of said convention, and set out and recited in the first paragraph hereof, the said ship or vessel Ella M. Doughty was found to have been fishing within the said distance of 3 marine miles of the said coasts, bays, creeks, and harbors, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo was thereupon seized within 3 marine miles of the coasts or shores of the said bay and harbor of St. Anne's, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach or violation of the said convention and of the said several acts.

13. Between the said 10th and 17th days of May, 1886, and subsequently, in the said bay and harbor of St. Anne's, within 3 marine miles of the shores thereof and within 3 marine miles of the coasts, bays, creeks, and harbors of those parts or portions of the dominions in America of his said late Majesty George the Third, being now the dominions in America of her present Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention and set out and recited in the first paragraph hereof, the said ship or vessel Ella M. Doughty was found to be preparing to fish within the said distance of 3 marine miles of the said coasts, bays, creeks, and harbors, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo was thereupon seized, within 3 marine miles of the coasts or shores of the said bay or harbor of St. Anne's, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for violation of the said convention and of the said several acts.

14. During the months of April and May, 1886, the said Warren A. Doughty, master, and the officers and crew of the said ship or vessel Ella M. Doughty, did, in the said ship or vessel Ella M. Doughty, enter within 3 marine miles of the coast, bays, creeks, and harbors, contrary to the provisions of the said convention of the Province of Nova Scotia, being a portion of the dominions of America of his late Majesty King George the Third, and now of her said Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel of bait to be used in fishing, and of fresh fish to be fished for, taken, and caught by and upon the said vessel, and by the master, officers, and crew thereof, and procure such bait wherewith to fish, and such ice for the purpose aforesaid, and did so enter for other purposes than the purpose of shelter or repairing damages, or of purchasing wood, or of obtaining water, contrary to the provisions of the said convention and of the several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 marine miles of the coast or shore of the said Province of Nova Scotia, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach of the said convention and of the said several acts.

15. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, did in the said ship or vessel Ella M. Doughty, and while he and they and the said ship or vessel Ella M. Doughty were within 3 marine miles of the coasts, bays, creeks, and harbors of the Province of Nova Scotia,



being a portion of the dominions in America formerly of his late Majesty King George the Third, and now of Her Majesty Queen Victoria, not included in the limits specified and defined in the said first article of the said convention, and set out and recited in the said first paragraph hereof, fish for fish, take fish, and dry and cure fish, and were preparing to fish within the meaning of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 marine miles of the coasts or shores of the said Province of Nova Scotia, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for breach or violation of the said convention and of the said several acts.

16. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel Ella M. Doughty, and the officers and crew of the said ship or vessel Ella M. Doughty, were in the said ship or vessel Ella M. Doughty, and while he and they and the said ship or vessel Ella M. Doughty were within 3 marine miles of the coasts, bays, creeks, and harbors of the Province of Nova Scotia, being a portion of the dominions in America formerly of his late Majesty King George the Third, and now of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention set out and recited in the first paragraph hereof, preparing to fish within the meaning of the said convention and of the said several acts hereinbefore mentioned, contrary to the provisions of the said convention and of the said several acts, and the said vessel Ella M. Doughty and her cargo were thereupon seized, within 3 miles of the coasts or shores of the said Province of Nova Scotia, by Donald McAuley and Lauchlin G. Campbell, officers of the customs of Canada, as being liable to forfeiture for violation of the said convention and of the said several acts.

The Hon. John S. D. Thompson, Her Majesty's attorney-general for the Dominion of Canada, on behalf of Her Majesty the Queen, claims the condemnation of the said ship and her cargo and her guns, ammunition, tackle, apparel, furniture, and stores for violation of the said convention and of the said several acts.

WALLACE GRAHAM,  
*Solicitor for the Attorney-General of Canada.*

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No. 173.

*Mr. Bayard to Mr. Phelps.*

No. 372.]

DEPARTMENT OF STATE,  
Washington, July 30, 1886.

SIR: Notwithstanding the express language of Article I of the convention between the United States and Great Britain, concluded October 20, 1818, by which it is provided that the inhabitants of the two contracting countries "shall have forever in common \* \* \* the liberty to take fish of every kind" on certain coasts therein described, and, as part thereof, "on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coast, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company," I have to-day received the sworn statements of the captain of an American fishing vessel, the Thomas F. Bayard, of Gloucester, Mass., to the effect that he has been hindered of his lawful rights, so expressly secured by the convention referred to, "to take fish of every kind" in the harbor of Bonne Bay, on the western coast of Newfoundland and within the geographical limits hereinbefore stated.

I inclose a copy of the affidavit and likewise of the formal notice received by the master of the Thomas F. Bayard from the customs officials at Bonne Bay, whereby, to avoid the seizure of his vessel by the local au-

thority of Newfoundland, he was compelled to abstain from the exercise of his lawful right to obtain fish for bait to be used in the open-sea fishing, and to break up his voyage and return home, thus suffering great loss.

The affidavit of Captain McEachern, of the American schooner *Mascot*, of Gloucester, Mass., which I hand you herewith, discloses the fact of the threat of the customs officials at Port Amherst, in the Magdalen Islands, to seize his vessel should he there obtain fresh fish for bait, although those islands are expressly designated and included in the region wherein the liberty forever to take fish of every kind is expressly secured by the convention of 1818.

Previous attempts or suggestions have been made by the local authorities of Newfoundland to inhibit the purchase or sale of fresh fish for use as bait, and the same have been distinctly disapproved by Her Majesty's Government, notably by the Duke of Newcastle, when secretary of state for the colonies, in his dispatch of August 3, 1863, to the governor of Newfoundland, Sir A. Bannerman, a copy of which you will find at page 111 in the public document (Ex. Doc. No. 84, House of Representatives, Forty-sixth Congress, second session) sent you by this mail.\*

You will please draw the attention of Her Majesty's secretary of state for foreign affairs (Lord Iddesleigh) to these infractions of treaty rights, and request that such instructions may be promptly issued to the Newfoundland officials as will prevent a recurrence of such wrongs to the lawful pursuits of American citizens; and you will also notify his lordship that remuneration for the damages incurred by the vessels and their owners in the cases referred to in this instruction will be claimed on behalf of the sufferers, so soon as the amount is accurately ascertained.

I am, &c.,

T. F. BAYARD.

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[Inclosure 1 in No. 372.]

Mr. Woodbury to Mr. Bayard, Boston, July 28, 1886, with inclosures. For inclosure see No. 263, p. 516.

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No. 174.

*Mr. Phelps to Mr. Bayard.*

No. 351.]

LEGATION OF THE UNITED STATES,  
London, September 13, 1886. [Received September 27.]

SIR: I have the honor to transmit to you herewith a copy of a note sent by me to Lord Iddesleigh, Her Majesty's secretary of state for foreign affairs, under date of September 11, 1886, on the subject of the Canadian fisheries.

And I have, &c.,

E. J. PHELPS.

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\* This document comprises the correspondence in relation to the Fortune Bay occurrences.

[Inclosure 1 in Mr. Phelps's No. 351.]

*Mr. Phelps to Lord Iddesleigh.*LEGATION OF THE UNITED STATES,  
London, September 11, 1886.

**MY LORD:** I have the honor to acknowledge the receipt of your note of September 1, on the subject of the Canadian fisheries.

I received also on the 16th of August, last, from Lord Rosebery, then foreign secretary, a copy of a note on the same subject, dated July 23, 1886, addressed by his Lordship, through the British minister at Washington, to Mr. Bayard, the Secretary of State of the United States, in reply to a note from Mr. Bayard to the British minister of May 10, and also to mine addressed to Lord Rosebery under date of June 2. The retirement of Lord Rosebery from office immediately after I received his note, prevented a continuance of the discussion with him. And in resuming the subject with your lordship, it may be proper to refer both to Lord Rosebery's note and to your own. In doing so I repeat in substance considerations expressed to you orally in recent interviews.

My note to Lord Rosebery was confined to the discussion of the case of the *David J. Adams*, the only seizure in reference to which the details had then been fully made known to me. The points presented in my note, and the arguments in support of them, need not be repeated.

No answer is attempted in Lord Rosebery's reply. He declines to discuss the questions involved on the ground that they are "now occupying the attention of the courts of law in the Dominion, and may possibly form the subject of an appeal to the judicial committee of Her Majesty's privy council in England."

He adds:

"It is believed that the courts in Canada will deliver judgment in the above cases very shortly, and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an opinion upon them, either as to facts or the legality of the action taken by the colonial authorities."

And your lordship remarks, in your note of August 24, "it is clearly right, according to practice and precedent, that such diplomatic action should be suspended pending the completion of the judicial inquiry."

This is a proposition to which the United States Government is unable to accede. The seizures complained of are not the acts of individuals claiming private rights which can be dealt with only by judicial determination, or which depend upon facts that need to be ascertained by judicial inquiry. They are the acts of the authorities of Canada, who profess to be acting, and in legal effect are acting, under the authority of Her Majesty's Government. In the report of the Canadian minister of marine and fisheries, which is annexed to and adopted as a part of Lord Rosebery's note, it is said:

"The colonial statutes have received the sanction of the British sovereign who, and not the nation, is actually the party with whom the United States made the convention. The officers who are engaged in enforcing the acts of Canada, or the laws of the Empire, are Her Majesty's officers, whether their authority emanates directly from the Queen or from her representative, the governor-general."

The ground upon which the seizures complained of are principally justified is the allegation that the vessels in question were violating the stipulations of the treaty between the United States and Great Britain. This is denied by the United States Government. The facts of the transaction are not seriously in dispute, and, if they were, could be easily ascertained by both Governments without the aid of the judicial tribunals of either, and the question to be determined is the true interpretation of the treaty as understood, and to be administered between the high contracting parties.

The proposition of Her Majesty's Government amounts to this, that before the United States can obtain consideration of their complaint that the Canadian authorities without justification have seized and are proceeding to confiscate American vessels, the result of the proceedings in the Canadian courts, instituted by the captors as the means of the seizures, must be awaited, and the decision of that tribunal on the international questions involved obtained.

The interpretation of a treaty when it becomes the subject of discussion between two governments is not; I respectfully insist, to be settled by the judicial tribunals of either. That would be placing its construction in the hands of one of the parties to it. It can only be interpreted for such a purpose by the mutual consideration and agreement which were necessary to make it. Questions between individuals arising upon the terms of a treaty may be for the courts to which they resort to adjust.

Questions between nations as to national rights secured by treaty are of a very different character and must be solved in another way.



The United States Government is no party to the proceedings instituted by the British authorities in Canada. Nor can it consent to become a party. The proceedings themselves are what the United States complain of as unauthorized, as well as unfriendly. It would be inconsistent with the dignity of a sovereign power to become a party to such proceedings, or to seek redress in any way in the courts of another country for what it claims to be the violation of treaty stipulations by the authorities of that country.

Still less could it consent to be made indirectly a party to the suits by being required to await the result of such defense as the individuals whose property is implicated may be able and may think proper to set up.

Litigation of that sort may be indefinitely prolonged. Meanwhile fresh seizures of American vessels upon similar grounds are to be expected, for which redress would in like manner await the decisions of the local tribunals, whose jurisdiction the captors invoke and the United States Government denies.

Nor need it be again pointed out, how different may be the question involved between the Governments from that which these proceedings raise in the Canadian courts. Courts in such cases do not administer treaties. They administer only the statutes that are passed in pursuance of treaties. If a statute contravene the provisions of a treaty, British courts are nevertheless bound by the statute. And if, on the other hand, there is a treaty stipulation which no statute gives the means of enforcing, the court cannot enforce it.

Although the United States Government insists that there is no British or colonial act authorizing the seizures complained of, if the British courts should nevertheless find such authority in any existing statute, the question whether the statute itself or the construction given it is warranted by the treaty would still remain. And also the still higher question, whether if the strict technical reading of the treaty might be thought to warrant such a result, it is one which ought to be enforced between sovereign and friendly nations acting in the spirit of the treaty.

The United States Government must therefore insist that, irrespective of the future result of the Canadian legal proceedings, the authority and propriety of which is the subject of dispute, and without waiting their conclusion, it is to Her Majesty's Government it must look for redress and satisfaction for the transactions in question, and for such instructions to the colonial authority as will prevent their repetition.

While, as I have observed, Lord Rosebery declines to discuss the question of the legality of these seizures, the able and elaborate report on the subject from the Canadian minister of marine and fisheries, which is made a part of it, attempts in very general terms to sustain their authority. He says:

"It is claimed that the vessel (the *David J. Adams*) violated the treaty of 1818, and consequently the statutes which exist for the enforcement of the treaty."

It is not clear from this language whether it is meant to be asserted that if an act, otherwise lawful, is prohibited by a treaty, the commission of the act becomes a violation of a statute which has no reference to it, if the statute was enacted to carry out the treaty, or whether it is intended to say that there was in existence, prior to the seizure of the vessel in question, some statute which did refer to the act complained of and did authorize proceedings or provide a penalty against American fishing vessels for purchasing bait or supplies in a Canadian port to be used in lawful fishing.

The former proposition does not seem to require refutation. If the latter is intended, I have respectfully to request that your lordship will have the kindness to direct a copy of such act to be furnished to me. I have supposed that none such existed, and neither in the report of the Canadian minister, nor in the customs circulars or warnings thereto appended, in which attention is called to the various legislation on the subject, is any such act pointed out.

The absence of such statute provision either in the act of Parliament (59 Geo. III, c. 38) or in any subsequent colonial act, is not merely a legal objection, though quite a sufficient one, to the validity of the proceedings in question. It affords the most satisfactory evidence that up to the time of the present controversy no such construction has been given to the treaty by the British or by the colonial parliament, as is now sought to be maintained.

No other attempt is made in the report of the Canadian minister to justify the legality of these seizures.

It is apparent from the whole of it that he recognizes the necessity of the proposed enactment of the act of the Canadian Parliament already alluded to in order to sustain them.

This remark is further confirmed by the communication from the Marquis of Lansdowne, governor-general of Canada, to Lord Granville, in reference to that act, annexed by Lord Rosebery to his second note to the British minister of July 23, 1886, a copy of which was sent me by his lordship, in connection with his other note of same date above referred to.

I do not observe upon other points of the minister's report not bearing upon the points of note to Lord Rosebery. So far as they relate to the communications addressed to

the British minister by Mr. Bayard, the Secretary of State will doubtless make such reply as may seem to him to be called for.

In various other instances American vessels have been seized or driven away by the provincial authorities when not engaged or proposing to engage in any illegal employment.

Some of these cases are similar to that of the Adams, the vessels having been taken possession of for purchasing bait or supplies to be used in lawful fishing, or for alleged technical breach of custom-house regulations, where no harm was either intended or committed, and under circumstances in which for a very long time such regulations have been treated as inapplicable.

In other cases, an arbitrary extension of the three-mile limit fixed by the treaty has been announced so as to include within it portions of the high sea, such as the Bay of Fundy, the Bay of Chaleur, and other similar waters, and American fishermen have been prevented from fishing in those places by threats of seizure. I do not propose at this time to discuss the question of the exact location of that line. But only to protest against its extension in the manner attempted by the provincial authorities.

To two recent instances of interference by Canadian officers with American fishermen, of a somewhat different character, I am specially instructed by my Government to ask your lordship's attention, those of the schooners Thomas F. Bayard and Mascot.

These vessels were proposing to fish in waters in which the right to fish is expressly secured to Americans by the terms of the treaty of 1818; the former in Bonne Bay, on the northwest coast of Newfoundland, and the latter near the shores of the Magdalen Islands.

For this purpose the Bayard attempted to purchase bait in the port of Bonne Bay, having reported at the custom-house and announced its object. The Mascot made a similar attempt at Port Amherst in the Magdalen Islands, and also desired to take on board a pilot. Both vessels were refused permission by the authorities to purchase bait, and the Mascot to take a pilot, and were notified to leave the ports within twenty-four hours on penalty of seizure. They were therefore compelled to depart, to break up their voyages, and to return home, to their very great loss. I append copies of the affidavits of the masters of these vessels, stating the facts.

Your lordship will observe, upon reference to the treaty, not only that the right to fish in these waters is conferred by it, but that the clause prohibiting entry by American fishermen into Canadian ports, except for certain specified purposes, which is relied on by the Canadian Government in the cases of the Adams and of some other vessels, has no application whatever to the ports from which the Bayard and the Mascot were excluded. The only prohibition in the treaty having reference to those ports is against curing and drying fish there, without leave of the inhabitants, which the vessels excluded had no intention of doing.

The conduct of the provincial officers toward these vessels was therefore not merely unfriendly and injurious, but in clear and plain violation of the terms of the treaty. And I am instructed to say that reparation for the losses sustained by it to the owners of the vessels will be claimed by the United States Government on their behalf as soon as the amount can be accurately ascertained.

It will be observed that interference with American fishing vessels by Canadian authorities is becoming more and more frequent, and more and more flagrant in its disregard of treaty obligations and of the principles of comity and friendly intercourse. The forbearance and moderation of the United States Government in respect to them appear to have been misunderstood and to have been taken advantage of by the provincial government. The course of the United States has been dictated, not only by an anxious desire to preserve friendly relations, but by the full confidence that the interposition of Her Majesty's Government would be such as to put a stop to the transactions complained of, and to afford reparation for what has already taken place. The subject has become one of grave importance, and I earnestly solicit the immediate attention of your lordship to the question it involves, and to the views presented in my former note and in those of the Secretary of State.

The proposal in your lordship's note that a revision of the treaty stipulations bearing upon the subject of the fisheries should be attempted by the Government, upon the basis of mutual concessions is one that under other circumstances would merit and receive serious consideration. Such a revision was desired by the Government of the United States before the present disputes arose, and when there was a reasonable prospect that it might have been carried into effect. Various reasons not within its control now concur to make the present time inopportune for that purpose, and greatly to diminish the hope of a favorable result to such an effort. Not the least of them is the irritation produced in the United States by the course of the Canadian Government, and the relief thereby engendered that a new treaty is attempted to be forced upon the United States Government.

It seems apparent that the questions now presented and the transactions that are the subject of present complaint must be considered and adjusted upon the provisions of the existing treaty, and upon the construction that is to be given to them.

A just construction of these stipulations, and such as would consist with the dignity, the interests, and the friendly relations of the two countries, ought not to be difficult, and can doubtless be arrived at.

As it appears to me very important to these relations that the collisions between the American fishermen and the Canadian officials should terminate, I suggest to your lordship whether an *ad interim* construction of the terms of the existing treaty cannot be reached by mutual understanding of the Governments, to be carried out informally by instructions given on both sides, without prejudice to ultimate claims of either, and terminable at the will of either, by which the conduct of the business can be so regulated for the time being as to prevent disputes and injurious proceedings until a more permanent understanding can be had.

Should this suggestion meet with your lordship's approval, perhaps you may be able to propose an outline for such an arrangement.

I am not prepared nor authorized to present one at this time, but may hereafter be instructed to do so if the effort is thought advisable.

I have, &c.,

E. J. PHELPS.

[Inclosure 2 in Mr. Phelps's No. 351.]

*Sworn statement of James McDonald, master of the Thomas F. Bayard, dated July 28, 1886, with accompanying notice served on him by N. N. Taylor, officer of customs, dated July 12, 1886.*

UNITED STATES OF AMERICA,  
*Commonwealth of Massachusetts :*

I, James McDonald, of Gloucester, on my oath do say I am master and part owner of the schooner Thomas F. Bayard, a licensed vessel of the United States; that she sailed with a permit to trade from Gloucester June 22, on a trip for halibut. We fished on the northwest coast of Newfoundland, near Bonne Bay, where, my supply of bait being exhausted, I ran into the port July 12 and reported at the custom house, stating to the collector that my purpose was to buy bait. The collector immediately served me with the notice hereto appended and made part of this affidavit. I had with me a copy of the Canadian Warning of March 5, 1886, which contained the clause 2 of the treaty of 1818. This I showed to the collector and argued that I had the right under the treaty there set out. In substance his reply was that he had an official duty to perform and would not permit me.

Fearing that my vessel would be seized should I remain or should I buy bait or take it, I determined to return to Gloucester, as my trip was broken up by reason of these threats in the notice and the action of the collector in refusing to recognize the rights secured to my vessel by the treaty. I arrived in Gloucester July 26. I say great losses and damages have inured to said vessel, her owner, and crew by reason of being warned off said coast and said Bonne Bay, as will be duly made to appear.

JAMES McDONALD.

COMMONWEALTH OF MASSACHUSETTS,  
*Suffolk ss :*

BOSTON, July 28, 1886.

Then personally appeared the above-named James McDonald and made oath that the foregoing statement by him subscribed is true.

CHARLES G. CHICK,  
*Justice of the Peace.*

[Inclosure 3 in Mr. Phelps's No. 351.]

*Mr. Taylor to Captain McDonald.*

BONNE BAY, July 12, 1886.

SIR: I am instructed to give you notice that the presence of your vessel in this port is in violation of the articles of the international convention of 1818 between Great Britain and the United States, in relation to fishery rights on the coast of Newfoundland, and of the laws in force in this country for the enforcement of the articles



of the convention, and that the purchase of bait or ice, or other transaction in connection with fishery operations, within 3 miles of the coasts of this colony, will be in further violation of the terms of said convention and laws.

I am, &c.,

N. N. TAYLOR,  
*Officer of Customs.*

Capt. JAMES McDONALD,  
*Schooner Thomas F. Bayard.*

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[Inclosure 4 in Mr. Phelps's No. 351.]

*Sworn statement of Alexander McEachern, master of the Mascot, dated July 27, 1886.*

STATE OF MASSACHUSETTS,  
*County of Essex:*

GLOUCESTER, *July 27, 1886.*

Be it known that on the 27th day of July, in the year of our Lord 1886, before me, Aaron Parsons, a notary public, duly commissioned and sworn, and dwelling at Gloucester, in the county and State aforesaid, personally appeared Alexander McEachern, master of the schooner called Mascot, of this port, who deposes and says: That on the 10th day of June, 1886 A. D., I went into Port Amherst, Magdalen Islands, for the purpose of buying bait, but as soon as I went ashore I was met by the custom-house officials, who forbid me from so doing, stating they would seize my vessel, and I had no right to enjoy any privileges here except to get wood and water. I informed him that I wanted to take a pilot so I could find a spot where I was informed the fishing was good. He also said if I shipped such pilot or laid in port over twenty-four hours he would seize my vessel.

[SEAL.]

Before me.

ALEX. MCEACHERN

AARON PARSONS, *N. P.*

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No. 175.

*Mr. Porter to Mr. Phelps.*

No. 414.]

DEPARTMENT OF STATE,  
*Washington, September 29, 1886.*

SIR: I transmit to you herewith, for your information, a copy of Mr. Bayard's note of the 23d instant, to Sir Lionel West, concerning the reported action of the customs officers at Sheep Creek, in the Straits of Canso, in threatening the American fishing schooner A. R. Crittenden with seizure if she took in water. Also a copy of Sir Lionel West's reply to said note.

I am, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

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[Inclosures in No. 414.]

1. Mr. Bayard to Sir L. West, September 23, 1886. For inclosure 1 see No. 221, p. 414.
2. Sir L. West to Mr. Bayard, September 25, 1886. For inclosure 2 see No. 222, p. 415.

No. 176.

*Mr. Phelps to Mr. Bayard.*

No. 372.]

LEGATION OF THE UNITED STATES,  
*London, October 12, 1886. [Received October 26.]*

SIR: I have the honor to inclose herewith a copy of a note received by me this day from Lord Iddesleigh in reference to the Canadian fisheries.

I have, &amp;c.,

E. J. PHELPS.

[Inclosure in Mr. Phelps's No. 372.]

*Lord Iddesleigh to Mr. Phelps.*FOREIGN OFFICE, *October 11, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 11th ultimo, on the subject of the Canadian fisheries, and I beg leave to acquaint you that the note is under the careful consideration of Her Majesty's Government and that an answer will be returned as early as possible.

I have, &amp;c.,

IDDESLEIGH.

No. 177.

*Mr. Bayard to Mr. Phelps.*

No. 434.]

DEPARTMENT OF STATE,  
*Washington, October 20, 1886.*

SIR: I inclose herewith for your information a copy of my note of the 19th instant, to Sir Lionel West, concerning the seizure of the American fishing vessel Everett Steele, of Gloucester, Mass., by the Canadian cutter Terror, on the 10th of September, 1886, in the harbor of Shelburne, Nova Scotia.

I am, &amp;c.,

T. F. BAYARD.

[Inclosure.]

Mr. Bayard to Sir Lionel West, October 19, 1886. For inclosure see No. 225, p. 419.

No. 178.

*Mr. Bayard to Mr. Phelps.*

No. 452.]

DEPARTMENT OF STATE,  
*Washington, November 6, 1886.*

SIR: On October 7, 1886, the United States fishing vessel, the Marion Grimes, of Gloucester, Mass., Alexander Landry, a citizen of the United States, being her captain, arrived shortly before midnight, under stress of weather, at the outer harbor of Shelburne, Nova Scotia.

The night was stormy, with a strong head-wind against her, and her sole object was temporary shelter. She remained at the spot where she anchored, which was about seven miles from the port of Shelburne, no one leaving her until 6 o'clock the next morning, when she hoisted sail in order to put to sea. She had scarcely started, however, before she was arrested and boarded by a boat's crew from the Canadian cruiser *Terror*. Captain Landry was compelled to proceed to Shelburne, about seven miles distant, to report to the collector. When the report was made, Captain Landry was informed that he was fined \$400 for not reporting on the previous night. He answered that the custom-house was not open during the time that he was in the outer harbor. He further insisted that it was obvious from the storm that caused him to take shelter in that harbor, from the shortness of his stay, and from the circumstances that his equipments were exclusively for deep-sea fishing, and that he had made no effort whatever to approach the shore, that his object was exclusively to find shelter. The fine, however, being imposed principally through the urgency of Captain Quigley, commanding the *Terror*, Captain Landry was informed that he was to be detained at the port of Shelburne until a deposit to meet the fine was made. He consulted Mr. White, the United States consular agent at Shelburne, who at once telegraphed the facts to Mr. Phelan, United States consul-general at Halifax, it being of great importance to Captain Landry, and to those interested in his venture, that he should proceed on his voyage at once. Mr. Phelan then telegraphed to the assistant commissioner of customs at Ottawa that it was impossible for Captain Landry to have reported while he was in the outer harbor on the 8th instant, and asking that the deposit required to release the vessel be reduced. He was told in reply that the minister declined to reduce the deposit, but that it might be made at Halifax. Mr. Phelan at once deposited at Halifax the \$400, and telegraphed to Captain Landry that he was at liberty to go to sea. On the evening of October 11 Mr. Phelan received a telegram from Captain Landry, who had already been kept four days in the port, stating that "the custom-house officers and Captain Quigley" refused to let him go to sea. Mr. Phelan the next morning called on the collector at Halifax to ascertain if an order had issued to release the vessel, and was informed that the order had been given, "but that the collector and captain of the cruiser refused to obey it, for the reason that the captain of the seized vessel hoisted the American flag while she was in custody of Canadian officials." Mr. Phelan at once telegraphed this state of facts to the assistant commissioner at Ottawa, and received in reply, under date of August 12, the announcement that "collector has been instructed to release the Grimes from customs seizure. This department has nothing to do with other charges." On the same day a dispatch from the commissioner of customs at Ottawa was sent to the collector of customs at Halifax reciting the order to release the Grimes, and saying "this [the customs] department has nothing to do with other charges. It is department of marine."

The facts as to the flag were as follows :

On October 11, the *Marion Grimes*, being then under arrest by order of local officials for not immediately reporting at the custom-house, hoisted the American flag. Captain Quigley, who, representing, as appeared, not the revenue, but the marine department of the Canadian administration, was, with his "cruiser," keeping guard over the vessel, ordered the flag to be hauled down. This order was obeyed; but about an hour afterwards the flag was again hoisted, whereupon Captain



Quigley boarded the vessel with an armed crew and lowered the flag himself. The vessel was finally released under orders of the customs department, being compelled to pay \$8 costs in addition to the deposit of \$400 above specified.

The seriousness of the damage inflicted on Captain Landry and those interested in his venture will be understood when it is considered that he had a crew of twelve men, with full supplies of bait, which his detention spoiled.

You will at once see that the grievances I have narrated fall under two distinct heads.

The first concerns the boarding by Captain Quigley of the Marion Grimes on the morning of October 8th. and compelling her to go to the town of Shelburne, there subjecting her to a fine of \$400 for visiting the port without reporting, and detaining her there arbitrarily four days, a portion of which time was after a deposit to meet the fine had been made.

This particular wrong I now proceed to consider with none the less gravity, because other outrages of the same class have been perpetrated by Captain Quigley. On August 18th last I had occasion, as you will see by the annexed papers, to bring to the notice of the British minister at this capital several instances of aggression on the part of Captain Quigley on our fishing vessels. On October 19, 1886, I had also to bring to the British minister's notice the fact that Captain Quigley had, on September the 10th, arbitrarily arrested the Everett Steele, a United States fishing vessel, at the outer port of Shelburne. To these notes I have received no reply. Copies are transmitted, with the accompanying papers, to you in connection with the present instruction, so that the cases, as part of a class, can be presented by you to Her Majesty's Government.

Were there no treaty relations whatever between the United States and Great Britain, were the United States fishermen without any other right to visit those coasts than are possessed by the fishing craft of any foreign country simply as such, the arrest and boarding of the Grimes, as above detailed, followed by forcing her into the port of Shelburne, there subjecting her to fine for not reporting, and detaining her until her bait and ice were spoiled, are wrongs which I am sure Her Majesty's Government will be prompt to redress. No Governments have been more earnest and resolute in insisting that vessels driven by stress of weather into foreign harbors should not be subject to port exactions than the Governments of Great Britain and the United States. So far has this solicitude been carried that both Governments, from motives of humanity, as well as of interest as leading maritime powers, have adopted many measures by which foreigners as well as citizens or subjects arriving within their territorial waters may be protected from the perils of the sea. For this purpose not merely light-houses and light-ships are placed by us at points of danger, but an elaborate life-saving service, well equipped with men, boats, and appliances for relief, studs our seaboard in order to render aid to vessels in distress, without regard to their nationality. Other benevolent organizations are sanctioned by Government which bestow rewards on those who hazard their lives in the protection of life and property in vessels seeking in our waters refuge from storms. Acting in this spirit the Government of the United States has been zealous, not merely in opening its ports freely, without charges to vessels seeking them in storm, but in insisting that its own vessels, seeking foreign ports under such circumstances, and exclu-

sively for such shelter, are not under the law of nations subject to custom-house exactions.

In cases of vessels carried into British ports by violence or stress of weather [said Mr. Webster in instructions to Mr. Everett, June 28, 1842] we insist that there shall be no interference from the land with the relation or personal condition of those on board, according to the laws of their own country; that vessels under such circumstances shall enjoy the common laws of hospitality, subjected to no force, entitled to have their immediate wants and necessities relieved, and to pursue their voyage without molestation.

In this case, that of the Creole, Mr. Wheaton, in the *Revue Française et Étrangère* (IX, 345), and Mr. Legaré (4 Op. At. Gen., 98), both eminent publicists, gave opinions that a vessel carried by stress of weather or forced into a foreign port is not subject to the law of such port; and this was sustained by Mr. Bates, the umpire of the commission to whom the claim was referred (Rep. Com. of 1853, 244, 245):

The municipal law of England [so he said] cannot authorize a magistrate to violate the law of nations by invading with an armed force the vessel of a friendly nation that has committed no offense, and forcibly dissolving the relations which, by the laws of his country, the captain is bound to preserve and enforce on board. These rights, sanctioned by the law of nations, viz, the right to navigate the ocean and to seek shelter in case of distress or other unavoidable circumstances, and to retain over the ship, her cargo, and passengers, the law of her country, must be respected by all nations, for no independent nation would submit to their violation.

It is proper to state that Lord Ashburton, who conducted the controversy in its diplomatic stage on the British side, did not deny as a general rule the propositions of Mr. Webster. He merely questioned the applicability of the rule to the case of the Creole. Nor has the principle ever been doubted by either Her Majesty's Government or the Government of the United States; while, in cases of vessels driven by storm on inhospitable coasts, both Governments have asserted it, sometimes by extreme measures of redress, to secure indemnity for vessels suffering under such circumstances from port exactions, or from injuries inflicted from the shore.

It would be hard to conceive of anything more in conflict with the humane policy of Great Britain in this respect, as well as with the law of nations, than was the conduct of Captain Quigley towards the vessel in question on the morning of October 8th.

In such coasts, at early dawn, after a stormy night, it is not unusual for boats, on errands of relief, to visit vessels which have been struggling with storm during the night. But in no such errand of mercy was Captain Quigley engaged. The Marion Grimes, having found shelter during the night's storm, was about to depart on her voyage, losing no time while her bait was fresh and her ice lasted, when she was boarded by an armed crew, forced to go 7 miles out of her way to the port, and was there under pressure of Captain Quigley, against the opinion originally expressed of the collector, subjected to a fine of \$400 with costs, and detained there, as I shall notice hereafter, until her voyage was substantially broken up. I am confident Her Majesty's Government will concur with me in the opinion that, as a question of international law, aside from treaty and other rights, the arrest and detention under the circumstances of Captain Landry and of his vessel were in violation of the law of nations as well as the law of humanity, and that on this ground alone the fine and the costs should be refunded and the parties suffering be indemnified for their losses thereby incurred.

It is not irrelevant, on such an issue as the present, to inquire into the official position of Captain Quigley, "of the Canadian cruiser Ter-

ror." He was, as the term "Canadian cruiser" used by him enables us to conclude, not an officer in Her Majesty's distinctive service. He was not the commander of a revenue cutter, for the head of the customs service disavowed him. Yet he was arresting and boarding, in defiance of law, a vessel there seeking shelter, over-influencing the collector of the port into the imposition of a fine, hauling down with his own hand the flag of the United States, which was displayed over the vessel, and enforcing arbitrarily an additional period of detention after the deposit had been made, simply because the captain of the vessel refused to obey him by executing an order insulting to the flag which the vessel bore. If armed cruisers are employed in seizing, harassing, and humiliating storm-bound vessels of the United States on Canadian coasts, breaking up their voyages and mulcting them with fines and costs, it is important for reasons presently to be specified that this Government should be advised of the fact.

From Her Majesty's Government redress is asked. And that redress, as I shall have occasion to say hereafter, is not merely the indemnification of the parties suffering by Captain Quigley's actions, but his withdrawal from the waters where the outrages I represent to you have been committed.

I have already said that the claims thus presented could be abundantly sustained by the law of nations, aside from treaty and other rights. But I am not willing to rest the case on the law of nations. It is essential that the issue between United States fishing vessels and the "cruiser Terror" should be examined in all its bearings, and settled in regard not merely to the general law of nations, but to the particular rights of the parties aggrieved.

It is a fact that the fishing vessel Marion Grimes had as much right under the special relations of Great Britain and the United States to enter the harbor of Shelburne as had the Canadian cruiser. The fact that the Grimes was liable to penalties for the abuse of such right of entrance does not disprove its existence. Captain Quigley is certainly liable to penalties for his misconduct on the occasion referred to. Captain Landry was not guilty of misconduct in entering and seeking to leave that harbor, and had abused no privilege. But whether liable or no for subsequent abuse of the rights, I maintain that the right of free entrance into that port, to obtain shelter, and whatever is incident thereto, belonged as much to the American fishing vessel as to the Canadian cruiser.

The basis of this right is thus declared by an eminent jurist and statesman, Mr. R. R. Livingston, the first Secretary of State appointed by the Continental Congress, in instructions issued on January 7, 1782, to Dr. Franklin, then at Paris, intrusted by the United States with the negotiation of articles of peace with Great Britain:

The arguments on which the people of America found their claim to fish on the banks of Newfoundland arise, first, from their having once formed a part of the British Empire, in which state they always enjoyed as fully as the people of Britain themselves the right of fishing on those banks. They have shared in all the wars for the extension of that right, and Britain could with no more justice have excluded them from the enjoyment of it (even supposing that one nation could possess it to the exclusion of another) while they formed a part of that Empire than they could exclude the people of London or Bristol. If so, the only inquiry is, how have we lost this right? If we were tenants in common with Great Britain while united with her, we still continue so, unless by our own act we have relinquished our title. Had we parted with mutual consent, we should doubtless have made partition of our common rights by treaty. But the oppressions of Great Britain forced us to a separation (which must be admitted, or we have no right to be independent); and it



can not certainly be contended that those oppressions abridged our rights or gave new ones to Britain. Our rights, then, are not invalidated by this separation, more particularly as we have kept up our claim from the commencement of the war, and assigned the attempt of Great Britain to exclude us from the fisheries, as one of the causes of our recurring to arms.

As I had occasion to show in my note to the British minister in the case of the Everett Steele, of which a copy is hereto annexed, this "tenancy in common," held by citizens of the United States in the fisheries, they were to "continue to enjoy" under the preliminary articles of 1782, as well as under the treaty of peace of 1783; and this right, as a right of entrance in those waters, was reserved to them, though with certain limitations in its use, by the treaty of 1818. I might here content myself with noticing that the treaty of 1818, herein reciting a principle of the law of nations as well as ratifying a right previously possessed by fishermen of the United States, expressly recognizes the right of these fishermen to enter the "bays or harbors" of Her Majesty's Canadian dominions, "for the purpose of shelter and of repairing damages therein." The extent of other recognitions of rights in the same clause need not here be discussed. At present it is sufficient to say that the placing an armed cruiser at the mouth of a harbor in which the United States fishing vessels are accustomed and are entitled to seek shelter on their voyages, such cruiser being authorized to arrest and board our fishing vessels seeking such shelter, is an infraction not merely of the law of nations, but of a solemn treaty stipulation. That, so far as concerns the fishermen so affected, its consequences are far-reaching and destructive, it is not necessary here to argue. Fishing vessels only carry provisions enough for each particular voyage. If they are detained several days on their way to the fishing banks the venture is broken up. The arrest and detention of one or two operates upon all. They cannot as a class, with their limited capital and resources, afford to run risks so ruinous. Hence, rather than subject themselves to even the chances of suffering the wrongs inflicted by Captain Quigley, "of the Canadian cruiser Terror," on some of their associates, they might prefer to abandon their just claim to the shelter consecrated to them alike by humanity, ancient title, the law of nations, and by treaty, and face the gravest peril and the wildest seas in order to reach their fishing grounds. You will therefore represent to Her Majesty's Government that the placing Captain Quigley in the harbor of Shelburne to inflict wrongs and humiliation on United States fishermen there seeking shelter is, in connection with other methods of annoyance and injury, expelling United States fishermen from waters, access to which, of great importance in the pursuit of their trade, is pledged to them by Great Britain, not merely as an ancient right, but as part of a system of international settlement.

It is impossible to consider such a state of things without grave anxiety. You can scarcely represent this too strongly to Her Majesty's Government.

It must be remembered, in considering this system, so imperiled, that the preliminaries to the article of 1782, afterwards adopted as the treaty of 1783, were negotiated at Paris by Dr. Franklin, representing the United States; and Mr. Richard Oswald, representing Lord Shelburne, then colonial secretary, and afterwards, when the treaty was finally agreed on, prime minister. It must be remembered, also, that Lord Shelburne, while maintaining the rights of the colonies when assailed by Great Britain, was nevertheless unwilling that their independence should be recognized prior to the treaty of peace, as if it were a concession wrung from Great Britain by the exigencies of war. His

position was that this recognition should form part of a treaty of partition, by which, as is stated by the court in *Sutton v. Sutton* (1 Rus. & M., 675), already noticed by me, the two great sections of the British Empire agreed to separate, in their articles of separation recognizing to each other's citizens or subjects certain territorial rights. Thus the continuance of the rights of the United States in the fisheries was recognized and guaranteed; and it was also declared that the navigation of the Mississippi, whose sources were, in the imperfect condition of geographical knowledge of that day, supposed to be in British territory, should be free and open to British subjects and to citizens of the United States. Both powers also agreed that there should be no further prosecutions or confiscations based on the war; and in this way were secured the titles to property held in one country by persons remaining loyal to the other. This was afterwards put in definite shape by the following article (Article X) of Jay's treaty:

It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in the dominion of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles wherein, and may grant, sell, or devise the same to whom they please in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens.

It was this article which the court in *Sutton v. Sutton*, above referred to, held to be one of the incidents of the "separation" of 1783, of perpetual obligation, unless rescinded by the parties, and hence not abrogated by the war of 1812.

It is not, however, on the continuousness of the reciprocities, recognized by the treaty of 1783, that I desire now to dwell. What I am anxious you should now impress upon the British Government is the fact that, as the fishery clause in this treaty, a clause continued in the treaty of 1818, was a part of a system of reciprocal recognitions which are interdependent, the abrogation of this clause, not by consent, but by acts of violence and of insult, such as those of the Canadian cruiser *Terror*, would be fraught with consequences which I am sure could not be contemplated by the Governments of the United States and Great Britain without immediate action being taken to avert them. To the extent of the system thus assailed I now direct attention.

When Lord Shelburne and Dr. Franklin negotiated the treaty of peace, the area on which its recognitions were to operate was limited. They covered, on the one hand, the fisheries; but the map of Canada in those days, as studied by Lord Shelburne, gives but a very imperfect idea of the territory near which the fisheries lay. Halifax was the only port of entry on the coast; the New England States were there and the other nine were provinces, but no organized governments to the west of them. It was on this area only, as well as on Great Britain, that the recognitions and guarantees of the treaty were at first to operate. Yet comparatively small as this field may now seem, it was to the preservation over it of certain reciprocal rights that the attention of the negotiators was mainly given. And the chief of these rights were: (1) the fisheries, a common enjoyment in which by both parties took nothing from the property of either; and (2) the preservation to the citizens or subjects of each country of title to property in the other.

Since Lord Shelburne's premiership this system of reciprocity and mutual convenience has progressed under the treaties of 1842 and 1846, so as to give to Her Majesty's subjects, as well as to citizens of the United States, the free use of the river Detroit or both sides of the island Bois

Blanc, and between that island and the American and Canadian shores, and all the several channels and passages between the various islands lying near the junction of the river St. Clair with the lake of that name. By the treaty of 1846 the principle of common border privileges was extended to the Pacific Ocean. The still existing commercial articles of the treaty of 1871 further amplified those mutual benefits by embracing the use of the inland waterways of either country, and defining enlarged privileges of bonded transit by land and water through the United States for the benefit of the inhabitants of the Dominion. And not only by treaties has the development of Her Majesty's American dominion, especially to the westward, been aided by the United States, but the vigorous contemporaneous growth under the enterprise and energy of citizens of the Northwestern States and Territories of the United States has been productive of almost equal advantages to the adjacent possessions of the British Crown, and the favoring legislation by Congress has created benefits in the way of railway facilities which under the sanction of State laws have been and are freely and beneficially enjoyed by the inhabitants of the Dominion and their Government.

Under this system of energetic and co-operative development the coast of the Pacific has been reached by the transcontinental lines of railway within the territorial limits of the respective countries, and, as I have stated, the United States being the pioneers in this remarkable progress, have been happily able to anticipate and incidentally to promote the subsequent success of their neighbors in British America.

It will be scarcely necessary for you to say to Lord Iddesleigh that the United States, in thus aiding in the promotion of the prosperity, and in establishing the security of Her Majesty's Canadian dominions, claims no particular credit. It was prompted, in thus opening its territory to Canadian use, and incidentally for Canadian growth, in large measure by the consciousness that such good offices are part of a system of mutual convenience and advantage growing up under the treaties of peace and assisted by the natural forces of friendly contiguity. Therefore it is that we witness with surprise and painful apprehension the United States fishermen hampered in their enjoyment of their undoubted rights in the fisheries.

The hospitalities of Canadian coasts and harbors, which are ours by ancient right, and which these treaties confirm, cost Canada nothing and are productive of advantage to her people. Yet, in defiance of the most solemn obligations, in utter disregard of the facilities and assistances granted by the United States, and in a way especially irritating, a deliberate plan of annoyances and aggressions has been instituted and plainly exhibited during the last fishing season—a plan calculated to drive these fishermen from shores where, without injury to others, they prosecute their own legitimate and useful industry.

It is impossible not to see that if the unfriendly and unjust system, of which the cases now presented are part, is sustained by Her Majesty's Government, serious results will almost necessarily ensue, great as is the desire of this Government to maintain the relations of good neighborhood. Unless Her Majesty's Government shall effectually check these aggressions a general conviction on the part of the people of the United States may naturally be apprehended that, as treaty stipulations in behalf of our fishermen, based on their ancient rights, cease to be respected, the maintenance of the comprehensive system of mutual commercial accommodation between Canada and the United States could not reasonably be expected.



In contemplation of so unhappy and undesirable a condition of affairs I express the earnest hope that Her Majesty's Government will take immediate measures to avert its possibility.

With no other purpose than the preservation of peace and good will and the promotion of international amity, I ask you to represent to the statesmen charged with the administration of Her Majesty's Government the necessity of putting an end to the action of Canadian officials in excluding American fishermen from the enjoyment of their treaty rights in the harbors and waters of the maritime provinces of British North America.

The action of Captain Quigley in hauling down the flag of the United States from the Marion Grimes has naturally aroused much resentment in this country, and has been made the subject of somewhat excited popular comment; and it is wholly impossible to account for so extraordinary and unwarranted an exhibition of hostility and disrespect by that official. I must suppose that only his want of knowledge of what is due to international comity and propriety and overheated zeal as an officer of police could have permitted such action; but I am confident that, upon the facts being made known by you to Her Majesty's Government, it will at once be disavowed, a fitting rebuke be administered, and the possibility of a repetition of Captain Quigley's offense be prevented.

It seems hardly necessary to say that it is not until after condemnation by a prize court that the national flag of a vessel seized as a prize of war is hauled down by her captor. Under the fourteenth section of the twentieth chapter of the Navy Regulations of the United States the rule in such cases is laid down as follows:

A neutral vessel, seized, is to wear the flag of her own country until she is adjudged to be a lawful prize by a competent court.

But, *a fortiori*, is this principle to apply in cases of customs seizures, where fines only are imposed and where no belligerency whatever exists. In the port of New York, and other of the countless harbors of the United States, are merchant vessels to-day flying the British flag which from time to time are liable to penalties for violations of customs laws and regulations. But I have yet to learn that any official, assuming, directly or indirectly, to represent the Government of the United States, would under such circumstances order down or forcibly haul down the British flag from a vessel charged with such irregularity; and I now assert that if such act were committed, this Government, after being informed of it, would not wait for a complaint from Great Britain, but would at once promptly reprimand the parties concerned in such misconduct and would cause proper expression of regret to be made.

A scrupulous regard for international respect and courtesy should mark the intercourse of the officials of these two great and friendly nations, and anything savoring of the contrary should be unhesitatingly and emphatically rebuked. I cannot doubt that these views will find ready acquiescence from those charged with the administration of the Government of Great Britain.

You are at liberty to make Lord Iddesleigh acquainted with the contents of this letter, and, if desired, leave with him a copy.

I am, sir, your obedient servant,

T. F. BAYARD.

No. 179.

*Mr. Bayard to Mr. Phelps.*

No. 462.]

DEPARTMENT OF STATE,  
Washington, November 20, 1886.

SIR: On the 6th of the present month I wrote you concerning the treatment of the United States fishing schooner Marion Grimes, of Gloucester, Mass., on October 7, 1886, in the outer harbor of Shelburne, Nova Scotia, by Captain Quigley, of the Canadian cruiser Terror.

I received yesterday and now inclose a copy of the statement made under oath by Captain Landry of the Marion Grimes, and present it as supplementary and confirmatory of my former communication on the subject.

I am, &amp;c.,

T. F. BAYARD.

[Inclosure in No. 462.]

*Affidavit of Captain Landry, of the schooner Marion Grimes.*

I, Alexander Landry, master of schooner Marion Grimes, of Gloucester, being duly sworn, do depose and say:

That on Monday, October 4, 1886, I sailed from Gloucester on a fishing trip to Western Bank. On the night of Thursday, October 7, the wind blowing almost a gale from the southeast and a heavy sea running, we came to anchor in the entrance of Shelburne Harbor about midnight for shelter. We were then fully 10 miles from the custom-house at Shelburne. At 4.30 a. m. of the next day we hove up our anchor to continue our voyage, the wind having died away almost to a calm. Just as we had got our anchor on the bow an officer and boat's crew from Canadian cruiser Terror (which laid off Sand Point some 3 miles above us) came on board and told me we must come to anchor at once and go to the custom-house at Shelburne and enter and clear. I at once anchored the vessel and taking my boat and two of my crew started for the custom-house. When we reached the Terror, Captain Quigley ordered me to come on board his vessel, leave my boat and men, and go with him in his boat to Shelburne. I arrived at the custom-house at about 8.30 a. m., and waited until 9 a. m., when Collector Attwood arrived. I then entered and cleared my vessel and was about to pay the charges and depart, when Captain Quigley entered the office and told the collector he ought not to clear my vessel as I had attempted to leave the harbor without reporting, and that the case should be laid before the authorities at Ottawa. Collector Attwood then withheld my papers until a decision should be received from Ottawa. I then tried to find the American consul, calling at his office three times during the day, and was unable to find him. But in the afternoon found a Mr. Blatchford in the consul's office, who informed me that my vessel had been fined \$400, and I wired my owners accordingly. At 4 p. m. returned with Captain Quigley on board the Terror, and when on board he informed me that my vessel was fined \$400.

He then sent a boat's crew on board my schooner, telling me to go with them, but detaining my boat and two men, and ordered me to take my schooner up to Shelburne at once. We started and got as far as Sand Point, and came to anchor for want of wind at about 10 o'clock p. m., and alongside the Terror. At 3 o'clock a. m. on Saturday, October 9, accompanied by the Terror, we started again for Shelburne inner harbor, arriving there about 7 o'clock a. m., and then the boat's crew left us and my two men came on board in my boat. I then went on shore and found the American consul, who informed me he could not give me any assistance. During Saturday, Sunday, and Monday I awaited dispatches from my owner in regard to the payment of the fine. On Monday morning, it being the anniversary of my birthday, I hoisted the American flag to the mast-head, and immediately Captain Quigley (speaking from the deck of his vessel) ordered me to haul it down, which I did; but after thinking the matter over, I concluded that as no regular seizure of my vessel had been made, no broad arrow put upon my mast, but my vessel only detained until a deposit of the fine had been made, Captain Quigley had acted beyond his authority, and acting on this conclusion I again set my flag at the mast-head. Captain Quigley again ordered me to haul down the flag, which I refused to do; upon which he came on board my vessel with eight men, and asked who gave the authority to hoist that flag. I replied that I took the authority myself. He then said, "Well, I'll haul it down myself,"

which I forbid him to do: but without heeding me he immediately hauled down the flag, unbent it, unrove the halyards, and passed the flag to me. I passed it back to him, telling him as he had hauled it down he better take charge of it himself. He then ordered his men to haul the vessel into the wharf, which they did, and Collector Attwood came on board and put a broad arrow (↗) on the mainmast and placed two watchmen on the wharf to watch the vessel. On Tuesday, October 12, at 10 a. m., Collector Attwood informed me that the vessel was released, but I must pay the bill for watching, amounting to \$8, and to save further delay I did so. On Tuesday evening, October 12, sailed for the Western Bank in continuation of my voyage.

ALEXANDER X LANDRY,  
his  
mark.

Witness:  
J. WARREN WONSON.

*Master.*

MASSACHUSETTS, *Essex*, ss:

NOVEMBER 13, 1886.

Personally appeared Alexander Landry and made oath to the truth of the above statement before me.

[SEAL.]

AARON PARSONS,  
*Notary Public.*

## CORRESPONDENCE WITH THE BRITISH LEGATION IN WASHINGTON.

No. 180.

*Sir L. West to Mr. Bayard.*

WASHINGTON, *March 19, 1886.* [Received March 20.]

SIR: I have the honor to inform you that the Earl of Rosebery has requested me to ascertain whether it is intended to give notice to the United States fishermen that they are now precluded from fishing in British North American territorial waters, as Her Majesty's Government are considering the expediency of issuing a reciprocal notice with regard to British fishermen in American waters.

I have, &c.,

L. S. SACKVILLE WEST

No. 181.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
*Washington, March 23, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, whereby you inform me that you have been requested by the Earl of Rosebery to ascertain "whether it is intended to give notice to the United States fishermen that they are now precluded from fishing in British North American territorial waters," and to inform you, in reply, that as full and formal public notification in the premises has already been given by the President's proclamation of 31st of January, 1885, it is not now deemed necessary to repeat it.

The temporary arrangement made between us on the 22d of June, 1885, whereby certain fishing operations on the respective coasts were not to be interfered with during the fishing season of 1885, notwithstanding the abrogation of the fishery articles of the treaty of Washington, came to an end under its own expressed limitation on the 31st of December last, and the fisheries question is now understood to rest



on existing treaties, precisely as though no fishery articles had been incorporated in the treaty of Washington.

In view of the enduring nature and important extent of the rights secured to American fishermen in British North American territorial waters under the provisions of the treaty of 1818, to take fish within the three-mile limit on certain defined parts of the British North American coasts and to dry and cure fish there under certain conditions, this Government has not found it necessary to give to United States fishermen any notification that "they are now precluded from fishing in British North American territorial waters."

I have, &c.,

T. F. BAYARD.

No. 182.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,  
*Washington, March 24. [Received March 25.]*

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, in reply to mine of the 19th, informing me that, as full and formal public notification in the premises has already been given by the President's proclamation of the 31st January, 1885, it has not been found necessary to give to United States fishermen any further notification that they are now precluded from fishing in British North American territorial waters. I have duly informed Her Majesty's Government and the Government of the Dominion of this decision.

I have, &c.,

L. S. SACKVILLE WEST.

No. 183.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
*Washington, May 10, 1886.*

SIR: On the 6th instant I received from the consul-general of the United States at Halifax a statement of the seizure of an American schooner, the *Joseph Story*, of Gloucester, Mass., by the authorities at Baddeck, Cape Breton, and her discharge after a detention of twenty-four hours.

On Saturday, the 8th instant, I received a telegram from the same official, announcing the seizure of the American schooner *David J. Adams*, of Gloucester, Mass., in the Annapolis Basin, Nova Scotia, and that the vessel had been placed in the custody of an officer of the Canadian steamer *Lansdowne*, and sent to St. John, New Brunswick, for trial.

As both of these seizures took place in closely land-locked harbors, no invasion of the territorial waters of the British provinces, with the view of fishing there, could well be imagined; and yet the arrests appear to have been based upon the act or intent of fishing within waters as to which, under the provision of the treaty of 1818 between Great Britain and the United States of America, the liberty of the inhabitants of the United States to fish has been renounced.

It would be superfluous for me to dwell upon the desire which, I am sure, controls those respectively charged with the administration of the Governments of Great Britain and of the United States to prevent oc-

currences tending to create exasperation, or unneighborly feeling, or collision between the inhabitants of the two countries; but, animated with this sentiment, the time seems opportune for me to submit some views for your consideration, which I confidently hope will lead to such administration of the laws regulating the commercial interests and the mercantile marine of the two countries as may promote good feeling and mutual advantage, and prevent hostility to commerce under the guise of protection to inshore fisheries.

The treaty of 1818 is between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto, or enforce its provisions by appropriate legislation.

The discussion prior to the conclusion of the treaty of Washington in 1871 was productive of a substantial agreement between the two countries as to the existence and limit of the three marine miles within the line of which, upon the regions defined in the treaty of 1818, it should not be lawful for American fishermen to take, dry, or cure fish. There is no hesitancy upon the part of the Government of the United States to proclaim such inhibition and warn their citizens against the infraction of the treaty in that regard, so that such inshore fishing cannot lawfully be enjoyed by an American vessel being within three marine miles of the land.

But since the date of the treaty of 1818, a series of laws and regulations importantly affecting the trade between the North American Provinces of Great Britain and the United States have been, respectively, adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants.

This independent and yet concurrent action by the two Governments has effected a gradual extension, from time to time, of the provisions of Article I of the convention of July 3, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the colonial possessions of Great Britain in North America and the West Indies within the results of that treaty.

President Jackson's proclamation of October 5, 1830, created a reciprocal commercial intercourse, on terms of perfect equality of flag, between this country and the British American dependencies, by repealing the navigation acts of April 18, 1818, May 15, 1820, and March 1, 1823, and admitting British vessels and their cargoes "to an entry in the ports of the United States from the islands, provinces, and colonies of Great Britain on or near the American continent, and north or east of the United States." These commercial privileges have since received a large extension in the interests of propinquity, and in some cases favors have been granted by the United States without equivalent concession. Of the latter class is the exemption granted by the shipping act of June 26, 1884, amounting to one-half of the regular tonnage dues on all vessels from the British North American and West Indian possessions entering ports of the United States. Of the reciprocal class are the arrangements for transit of goods, and the remission, by proclamation, as to certain British ports and places of the remainder of the tonnage-tax, on evidence of equal treatment being shown to our vessels.

On the other side, British and colonial legislation, as notably in the case of the imperial shipping and navigation act of June 26, 1849, has contributed its share toward building up an intimate intercourse and beneficial traffic between the two countries founded on mutual interest and convenience.

These arrangements, so far as the United States are concerned, depend upon municipal statute and upon the discretionary powers of the Executive thereunder.

The seizure of the vessels I have mentioned, and certain published "warnings" purporting to have been issued by the colonial authorities, would appear to have been made under a supposed delegation of jurisdiction by the Imperial Government of Great Britain, and to be intended to include authority to interpret and enforce the provisions of the treaty of 1818, to which, as I have remarked, the United States and Great Britain are the contracting parties, who can alone deal responsibly with questions arising thereunder.

The effect of this colonial legislation and Executive interpretation, if executed according to the letter, would be not only to expand the restrictions and renunciations of the treaty of 1818, which related solely to inshore fishery within the three-mile limit, so as to affect the deep-sea fisheries, the right to which remained unquestioned and unimpaired for the enjoyment of the citizens of the United States, but further to diminish and practically to destroy the privileges expressly secured to American fishing vessels to visit those inshore waters for the objects of shelter, repair of damages, and purchasing wood, and obtaining water.

Since 1818, certain important changes have taken place in fishing in the regions in question, which have materially modified the conditions under which the business of inshore fishing is conducted and which must have great weight in any present administration of the treaty.

Drying and curing fish, for which a use of the adjacent shores was at one time requisite, is now no longer followed, and modern invention of processes of artificial freezing, and the employment of vessels of a larger size, permit the catch and direct transportation of fish to the markets of the United States without recourse to the shores contiguous to the fishing grounds.

The mode of taking fish inshore has also been wholly changed, and from the highest authority on such subjects I learn that bait is no longer needed for such fishing, that purse-seines have been substituted for the other methods of taking mackerel, and that by their employment these fish are now readily caught in deeper waters entirely exterior to the three-mile line.

As it is admitted that the deep-sea fishing was not under consideration in the negotiation of the treaty of 1818, nor was affected thereby, and as the use of bait for inshore fishing has passed wholly into disuse, the reasons which may have formerly existed for refusing to permit American fishermen to catch or procure bait within the line of a marine league from the shore lest they should also use it in the same inhibited waters for the purpose of catching other fish, no longer exist.

For it will, I believe, be conceded as a fact that bait is no longer needed to catch herring or mackerel, which are the objects of inshore fishing, but is used, and only used, in deep-sea fishing, and, therefore, to prevent the purchase of bait or any other supply needed in deep-sea fishing, under color of executing the provisions of the treaty of 1818, would be to expand that convention to objects wholly beyond its purview, scope, and intent, and give to it an effect never contemplated by either party, and accompanied by results unjust and injurious to the citizens of the United States.

As, therefore, there is no longer any inducement for American fishermen to "dry and cure" fish on the interdicted coasts of the Canadian Provinces, and as bait is no longer used or needed by them [for the prosecution of inshore fishing] in order to "take" fish in the inshore



waters to which the treaty of 1818 alone relates, I ask you to consider the results of excluding American vessels, duly possessed of permits from their own Government to touch and trade at Canadian ports as well as to engage in deep sea-fishing, from exercising freely the same customary and reasonable rights and privileges of trade in the ports of the British colonies as are freely allowed to British vessels in all the ports of the United States under the laws and regulations to which I have adverted.

Among these customary rights and privileges may be enumerated the purchase of ship-supplies of every nature, making repairs, the shipment of crews in whole or part, and the purchase of ice and bait for use in deep-sea fishing.

Concurrently, these usual rational and convenient privileges are freely extended to and are fully enjoyed by the Canadian merchant marine of all occupations, including fishermen in the ports of the United States.

The question therefore arises whether such a construction is admissible as would convert the treaty of 1818 from being an instrumentality for the protection of the inshore fisheries along the described parts of the British American coast into a pretext or means of obstructing the business of deep-sea fishing by citizens of the United States, and of interrupting and destroying the commercial intercourse that since the treaty of 1818, and independent of any treaty whatever, has grown up and now exists under the concurrent and friendly laws and mercantile regulations of the respective countries.

I may recall to your attention the fact that a proposition to exclude the vessels of the United States engaged in fishing from carrying also merchandise was made by the British negotiators of the treaty of 1818, but being resisted by the American negotiators was abandoned. This fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify a vessel from also trading in the regular ports of entry.

I have been led to offer these considerations by the recent seizures of American vessels to which I have adverted and by indications of a local spirit of interpretation in the Provinces, affecting friendly intercourse, which is, I firmly believe, not warranted by the terms of the stipulations on which it professes to rest. It is not my purpose to prejudge the facts of the cases, nor have I any desire to shield any American vessel from the consequences of violation of international obligation. The views I advance may prove not to be applicable in every feature to those particular cases, and I should be glad if no case whatever were to arise calling in question the good understanding of the two countries in this regard in order to be free from the grave apprehensions which otherwise I am unable to dismiss.

It would be most unfortunate, and, I cannot refrain from saying, most unworthy, if the two nations who contracted the treaty of 1818 should permit any questions of mutual right and duty under that convention to become obscured by partisan advocacy or distorted by the heat of local interests. It cannot but be the common aim to conduct all discussion in this regard with dignity and in a self-respecting spirit, that will show itself intent upon securing equal justice rather than unequal advantage. Comity, courtesy, and justice cannot, I am sure, fail to be the ruling motives and objects of discussion.

I shall be most happy to come to a distinct and friendly understanding with you, as the representative of Her Britannic Majesty's Government, which will result in such a definition of the rights of American

fishing-vessels under the treaty of 1818 as shall effectually prevent any encroachment by them upon the territorial waters of the British Provinces for the purpose of fishing within those waters, or trespassing in any way upon the littoral or marine rights of the inhabitants, and, at the same time, prevent that convention from being improperly expanded into an instrument of discord by affecting interests and accomplishing results wholly outside of and contrary to its object and intent, by allowing it to become an agency to interfere with and perhaps destroy those reciprocal commercial privileges and facilities between neighboring communities which contribute so importantly to their peace and happiness. It is obviously essential that the administration of the laws regulating the Canadian inshore fishing should not be conducted in a punitive and hostile spirit, which can only tend to induce acts of a retaliatory nature.

Everything will be done by the United States to cause their citizens engaged in fishing to conform to the obligations of the treaty, and prevent an infraction of the fishing laws of the British Provinces; but it is equally necessary that ordinary commercial intercourse should not be interrupted by harsh measures and unfriendly administration.

I have the honor, therefore, to invite a frank expression of your views upon the subject, believing that, should any differences of opinion or disagreement as to facts exist, they will be found to be so minimized that an accord can be established for the full protection of the inshore fishing of the British Provinces, without obstructing the open-sea fishing operations of the citizens of the United States or disturbing the trade regulations now subsisting between the countries.

I have, &c.,

T. F. BAYARD.

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No. 184.

*Sir L. West to Mr. Bayard.*

WASHINGTON, May 10, 1886. [Received May 12.]

SIR: I have the honor to acknowledge the receipt of your note of this day's date, and to inform you that I have lost no time in transmitting copy of this important communication to Her Majesty's Government.

I have, &c.,

L. S. SACKVILLE WEST.

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No. 185.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, May 20, 1886.

SIR: Although without reply to the note I had the honor to address to you on the 10th instant, in relation to the Canadian fisheries and the interpretation of the treaty of 1818 between the United States and Great Britain as to the rights and duties of the American citizens en-

gaged in maritime trade and intercourse with the Provinces of British North America, in view of the unrestrained, and, as it appears to me, unwarranted, irregular, and severe action of Canadian officials toward American vessels in those waters, yet I feel it to be my duty to bring impressively to your attention information more recently received by me from the United States consul-general at Halifax, Nova Scotia, in relation to the seizure and continued detention of the American schooner David J. Adams, already referred to in my previous note, and the apparent disposition of the local officials to use the most extreme and technical reasons for interference with vessels not engaged in or intended for inshore fishing on that coast.

The report received by me yesterday evening alleges such action in relation to the vessel mentioned as renders it difficult to imagine it to be that orderly proceeding and "due process of law" so well known and customarily exercised in Great Britain and the United States, and which dignifies the two Governments, and gives to private rights of property and the liberty of the individual their essential safeguards.

By the information thus derived it would appear that after four several and distinct visitations by boats' crews from the Lansdowne, in Annapolis Basin, Nova Scotia, the David J. Adams was summarily taken into custody by the Canadian steamer Lansdowne and carried out of the Province of Nova Scotia, across the Bay of Fundy, and into the port of St. John, New Brunswick, and without explanation or hearing, on the following Monday, May 10, taken back again by an armed crew to Digby, in Nova Scotia. That in Digby the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the David J. Adams and of the United States consul-general to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the provincial official in charge. Nor was the United States consul-general able to learn from the commander of the Lansdowne the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

In so extraordinary, confused, and irresponsible a condition of affairs, it is not possible to ascertain with that accuracy which is needful in matters of such grave importance the precise grounds for this harsh and peremptory arrest and detention of a vessel the property of citizens of a nation with whom relations of peace and amity were supposed to exist.

From the best information, however, which the United States consul-general was enabled to obtain after application to the prosecuting officials, he reports that the David J. Adams was seized and is now held (1) for alleged violation of the treaty of 1818; (2) for alleged violation of the act 59 Geo. III; (3) for alleged violation of the colonial act of Nova Scotia of 1868; and (4) for alleged violation of the act of 1870. and also that of 1883, both Canadian statutes.

Of these allegations there is but one which at present I press upon your immediate consideration, and that is the alleged infraction of the treaty of 1818.

I beg to recall to your attention the correspondence and action of those respectively charged with the administration and government of Great Britain and the United States in the year 1870, when the same international questions were under consideration and the status of law was not essentially different from what it is at present.



This correspondence discloses the intention of the Canadian authorities of that day to prevent encroachment upon their inshore fishing grounds, and their preparations in the way of a marine police force, very much as we now witness. The statutes of Great Britain and of her Canadian Provinces, which are now supposed to be invoked as authority for the action against the schooner *David J. Adams*, were then reported as the basis of their proceedings.

In his note of May 26, 1870, Mr. (afterwards Sir Edward) Thornton, the British minister at this capital, conveyed to Mr. Fish, then Secretary of State, copies of the orders of the royal Admiralty to Vice-Admiral Wellesley, in command of the naval forces "employed in maintaining order at the fisheries in the neighborhood of the coasts of Canada."

All of these orders directed the protection of Canadian fishermen and cordial co-operation and concert with the United States force sent on the same service with respect to American fishermen in those waters. Great caution in the arrest of American vessels charged with violation of the Canadian fishing laws was scrupulously enjoined upon the British authorities, and the extreme importance of the commanding officers of ships selected to protect the fisheries exercising the utmost discretion in paying especial attention to Lord Granville's observation, that no vessel should be seized unless it were evident, and could be clearly proved, that the offense of fishing had been committed, and the vessel captured within three miles of land.

This caution was still more explicitly announced when Mr. Thornton, on the 11th of June, 1870, wrote to Mr. Fish:

You are, however, quite right in not doubting that Admiral Wellesley, on the receipt of the later instructions addressed to him on the 5th ultimo, will have modified the directions to the officers under his command so that they may be in conformity with the views of the Admiralty. In confirmation of this I have since received a letter from Vice-Admiral Wellesley dated the 30th ultimo, informing me that he had received instructions to the effect that officers of Her Majesty's ships employed in the protection of the fisheries should not seize any vessel unless it were evident, and could be clearly proved, that the offense of fishing had been committed and the vessel itself captured within three miles of land.

This understanding between the two Governments wisely and efficiently guarded against the manifest danger of intrusting the execution of powers so important and involving so high and delicate a discretion to any but wise and responsible officials, whose prudence and care should be commensurate with the magnitude and national importance of the interests involved. And I should fail in my duty if I did not endeavor to impress you with my sense of the absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the treaty of 1818 to the conditions announced by Sir Edward Thornton to this Government in June, 1870.

The charges of violating the local laws and commercial regulations of the ports of the British Provinces (to which I am desirous that due and full observance should be paid by citizens of the United States), I do not consider in this note, and I will only take this occasion to ask you to give me full information of the official action of the Canadian authorities in this regard, and what laws and regulations having the force of law, in relation to the protection of their inshore fisheries and preventing encroachments thereon, are now held by them to be in force.

But I trust you will join with me in realizing the urgent and essential importance of restricting all arrests of American fishing vessels for supposed or alleged violations of the convention of 1818 within the limitations and conditions laid down by the authorities of Great Britain in 1870, to wit: That no vessel shall be seized unless it is evident and can

be clearly proved that the offense of fishing has been committed and the vessel itself captured within three miles of land.

In regard to the necessity for the instant imposition of such restrictions upon the arrest of vessels, you will, I believe, agree with me, and I will therefore ask you to procure such steps to be taken as shall cause such orders to be forthwith put in force under the authority of Her Majesty's Government.

I have, &c.,

T. F. BAYARD.

No. 186.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, May 22, 1886.

MY DEAR SIR LIONEL: I have telegraphed to-day to Mr. Phelps, urging the advantage and need of my coming to some immediate understanding with you expressive of the views of the two parties to the treaty.

My conviction strengthens as to the importance of having a stop put at once to vexatious interpretations and action by local authorities, which can only hinder an amicable accord, and I have asked that these seizures be suspended without prejudice to the legal results pending an authoritative treatment of the main question.

It surely cannot be the purpose of the provincial authorities to embarrass the two Governments, by whom alone the issues are cognizable. A frank and friendly spirit has been exhibited by both Governments in abstaining from any demonstration of naval force in the provincial waters, and it is desirable that this should be continued, as it will add to the moral impressiveness of any settlement we may arrive at.

Very faithfully yours,

T. F. BAYARD.

No. 187.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, May 29, 1886.

SIR: I have just received an official imprint of House of Commons bill No. 136, now pending in the Canadian Parliament, entitled "An act further to amend the act respecting fishing by foreign vessels," and am informed that it has passed the house and is now pending in the senate.

This bill proposes the forcible search, seizure, and forfeiture of any foreign vessel within any harbor in Canada, or hovering within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, where such vessel has entered such waters for any purpose not permitted by the laws of nations, or by treaty or convention, or by any law of the United Kingdom or of Canada now in force.

I hasten to draw your attention to the wholly unwarranted proposition of the Canadian authorities, through their local agents, arbitrarily

to enforce according to their own construction the provisions of any convention between the United States and Great Britain, and, by the interpolation of language not found in any such treaty, and, by interpretation not claimed or conceded by either party to such treaty, to invade and destroy the commercial rights and privileges of citizens of the United States under and by virtue of treaty stipulation with Great Britain and statutes in that behalf made and provided.

I have also been furnished with a copy of circular No. 371, purporting to be from the customs department at Ottawa, dated May 7, 1886, and to be signed by J. Johnson, commissioner of customs, assuming to execute the provisions of the treaty between the United States and Great Britain, concluded October 20, 1818, and printed copies of a warning, purporting to be issued by George E. Foster, minister of marine and fisheries, dated at Ottawa, March 5, 1886, of a similar tenor, although capable of unequal results in its execution.

Such proceedings I conceive to be flagrantly violative of the reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain and the well-defined and publicly proclaimed authority of both countries, besides being in respect of the existing conventions between the two countries an assumption of jurisdiction entirely unwarranted and which is wholly denied by the United States.

In the interest of the maintenance of peaceful and friendly relations, I give you my earliest information on this subject, adding that I have telegraphed Mr. Phelps, our minister at London, to make earnest protest to Her Majesty's Government against such arbitrary, unlawful, unwarranted and unfriendly action on the part of the Canadian Government and its officials, and have instructed Mr. Phelps to give notice that the Government of Great Britain will be held liable for all losses and injuries to citizens of the United States and their property caused by the unauthorized and unfriendly action of the Canadian officials to which I have referred.

I have, &c.

T. F. BAYARD.

No. 188.

*Sir L. West to Mr. Bayard.*

WASHINGTON, June 2, 1886. [Received June 3.]

SIR: I have the honor to acknowledge the receipt of your notes of the 20th and 29th of May on the subject of the seizure of American fishing vessels in Canadian waters.

I have, &c.

L. S. SACKVILLE WEST.

No. 189.

*Mr. Bayard to Sir L. West.*

WASHINGTON, June 2, 1886.

MY DEAR SIR LIONEL: A telegram from Eastport, in Maine, to the member of Congress from that district, announces a threat by Dominion collectors of customs to seize American boats if they buy herring for canning in the Dominion weirs.



This additional threatened inhibition of trade relates to the *sardine* industry, which consists in canning in the United States very small and young herring, which, I am informed, are caught very closely inshore in weirs, in Canadian waters, by the inhabitants and sold to citizens of the United States.

The occupation is carried on solely by Canadian fishermen, along the coasts of their own country, so that the interference suggested is with their freedom of contract to dispose of property lawfully the result of their own labors, because the sale is to citizens of the United States.

It is important that the facts should be made known plainly.

Yours very sincerely,

T. F. BAYARD.

No. 190.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, June 7, 1886.

SIR: I regret exceedingly to communicate that report is to-day made to me, accompanied by affidavit, of the refusal of the collector of customs at the port of St. Andrews, New Brunswick, to allow the master of the American schooner *Annie M. Jordan*, of Gloucester, Mass., to enter the said vessel at that port, although properly documented as a fishing vessel with permission to touch and trade at any foreign port or place during her voyage.

The object of such entry was explained by the master to be the purchase and exportation of "certain merchandise" (possibly fresh fish for food, or bait for deep-sea fishing).

The vessel was threatened with seizure by the Canadian authorities, and her owners allege that they have sustained damage from this refusal of commercial rights.

I earnestly protest against this unwarranted withholding of lawful commercial privileges from an American vessel and her owners, and for the loss and damage consequent thereon the Government of Great Britain will be held liable.

I have, &c.,

T. F. BAYARD.

No. 191.

*Sir L. West to Mr. Bayard.*

WASHINGTON, June 8, 1886. [Received June 9.]

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, protesting against the proceedings taken in the case of the *Annie M. Jordan* by the Canadian authorities.

I have, &c.,

L. S. SACKVILLE WEST.

No. 192.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
*Washington, June 14, 1886.*

SIR: The consul-general of the United States at Halifax communicated to me the information derived by him from the collector of customs at that port to the effect that American fishing vessels will not be permitted to land fish at that port of entry for transportation in bond across the province.

I have also to inform you that the masters of the four American fishing vessels of Gloucester, Mass., Martha A. Bradley, Rattler, Eliza Boynton, and Pioneer, have severally reported to the consul-general at Halifax that the subcollector of customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit, on the Cape Breton coast, a distance of 40 miles. This line for nearly its entire continuance is distant 12 to 25 miles from the coast.

The same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape, on Prince Edward Island, to a point three miles outside of East Point, on the same island, a distance of over 100 miles, and that this last-named line was for nearly that entire distance about 30 miles from the shore.

The same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

Such warnings are, as you must be well aware, wholly unwarranted pretensions of extraterritorial authority and usurpations of jurisdiction by the provincial officials.

It becomes my duty, in bringing this information to your notice, to request that if any such orders for interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the treaty of 1818, may have been issued, the same may at once be revoked as violative of the rights of citizens of the United States under convention with Great Britain.

I will ask you to bring this subject to the immediate attention of Her Britannic Majesty's Government, to the end that proper remedial orders may be forthwith issued.

It seems most unfortunate and regrettable that questions which have been long since settled between the United States and Great Britain should now be sought to be revived.

I have, &c.,

T. F. BAYARD.

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No. 193.*Sir L. West to Mr. Bayard.*

WASHINGTON, June 15, 1886. [Received June 16.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, bringing to my notice certain alleged warnings given

by the Canadian authorities to American fishing vessels, and to inform you that I have brought the matter to the notice of Her Majesty's Government.

I have, &c.

L. S. SACKVILLE WEST.

No. 194.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,  
Washington, June 18, 1886. [Received June 19.]

Sir Lionel West presents his compliments to Mr. Bayard, and has the honor to transmit to him herewith the accompanying acts, which have been forwarded to him, at the request of Sir John McDonald, by the deputy minister of marine and fisheries, for his information.

[Inclosure in note of June 18, 1886.]

CAP. XIV.

AN ACT relating to the fisheries, and for the prevention of illicit trade in Prince Edward's Island, and the coasts and harbors thereof.

Whereas by the convention made between his late Majesty King George the Third and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen, and the statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of his late Majesty King George the Third, all foreign ships, vessels, or boats, or any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first article of the said convention, are liable to seizure; and whereas the United States did, by the said convention, renounce forever any liberty enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however*, That the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them; and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this island are materially impaired; and whereas the said act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this island, and the fishery carried on contrary to the said convention and statute:

I. *Be it therefore enacted by the lieutenant-governor, council, and assembly*, That from and after the passing of this act, it shall be lawful for the officers of Her Majesty's customs, the officers of imposts and excise, the sheriffs and magistrates throughout this island, and any person holding a commission for that purpose from his excellency the lieutenant-governor, for the time being, to go on board any ship, vessel, or boat within any port, bay, creek, or harbor in this island, and also to go on board any



ship, vessel, or boat hovering within three marine miles of any of the coasts, bays, creeks, or harbors thereof, and in either case freely to stay on board such ship, vessel or boat, as long as she shall remain within such port or distance, and if any such ship, vessel, or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel, or boat into port, and to search and examine her cargo and to examine the master upon oath, touching the cargo and voyage, and if there be any goods on board prohibited to be imported into this island, such ship, vessel, or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel, or boat shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creek, or harbors of this island, such ship, vessel, or boat, and their respective cargoes shall be forfeited, and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

II. *And be it further enacted*, That all goods, ships, vessels, and boats liable to forfeiture under this act shall, and may be, seized and secured by any such officer of Her Majesty's customs, officer of imposts and excise, sheriff, magistrates, or other person holding such commission as aforesaid; and every person who shall in any way oppose, molest, or obstruct any officer of the customs, officer of impost and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of customs, officer of imposts and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offense, forfeit the sum of two hundred pounds.

III. *And be it further enacted*, That all goods, ships, vessels, and boats which shall be seized as being liable to forfeiture under this act shall be taken forthwith and delivered into the custody of the collector of customs at the custom-house next to the place where the same was seized, who shall secure and keep the same in such manner as other vessels and goods seized are directed to be secured by the commissioners of Her Majesty's customs.

IV. *And be it further enacted*, That all goods, ships, vessels, boats, or other things which shall have been condemned as forfeited under this act shall, under the direction of the principal officer of the customs or excise, where such seizure shall have been secured, be sold by public auction to the best bidder, and the produce of such sale to be applied as follows, that is to say, the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties, one of which shall be paid to the officer or other person or persons legally seizing the same without deduction, and the other moiety to the Government, and paid into the treasury of this island, all costs incurred having been first deducted therefrom: *Provided always*, That it shall be lawful for the lieutenant-governor, in council, to direct that any of such things shall be destroyed, or reserved for the public service.

V. *And be it further enacted*, That all penalties and forfeitures, which may be hereafter incurred under this act, shall and may be prosecuted, sued for, and recovered, in the court of vice-admiralty having jurisdiction in this island.

VI. *And be it further enacted*, That if any goods, or any ship, vessel or boat shall be seized as forfeited under this act, it shall be lawful for the judge or judges of any court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation, and such bond shall be taken to the use of Her Majesty, in the name of the collector of the customs, in whose custody the goods, or ship, vessel, or boat may be lodged, and such bond shall be delivered and kept in the custody of such collector; and in case the goods, or ship, vessel, or boat shall be condemned, the value thereof shall be paid into the hands of such collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

VII. *And be it further enacted*, That no suit shall be commenced for the recovery of any penalty or forfeiture under this act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's advocate or attorney general, or in his absence, by the solicitor-general for this island; and if any question shall arise, whether any person is an officer of the customs, excise, sheriff, magistrate, or other person authorized to seize as aforesaid, *viva voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

VIII. *And be it further enacted*, That if any goods, ship, vessel, or boat shall be seized for any cause or forfeiture under this act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall be

on the owner or claimant of such goods, ship, vessel, or boat, and not on the officer or person who shall seize and stop the same.

IX. *And be it further enacted*, That no claim to anything seized under this act, and returned into Her Majesty's court of vice-admiralty for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation; nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief; and every person making a false oath thereto shall be deemed guilty of a misdemeanor, and shall be liable to the pains and penalties to which persons are liable for a misdemeanor.

X. *And be it further enacted*, That no person shall be admitted to enter a claim to anything seized in pursuance of this act and prosecuted in this island until sufficient security shall have been given in the court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim, and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

XI. *And be it further enacted*, That no writ shall be sued out against nor a copy of any process served upon any officer of the customs, excise, sheriff, magistrate, or other person authorized to seize as aforesaid, for anything done in the exercise of this office until one calendar month after notice, in writing, shall have been delivered to him or left at his usual place of abode by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given, and, in default of such proof, the defendant shall receive in such action a verdict and costs, or judgment of non-suit shall be awarded against the plaintiff, as the court shall direct.

XII. *And be it further enacted*, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in Her Majesty's supreme court of judicature for this island, and the defendant may plead the general issue and give the special matter in evidence; and if the plaintiff shall become non-suited, or shall discontinue the action, or, if, upon a verdict of demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

XIII. *And be it further enacted*, That in case any information or suit shall be brought to trial, on account of any seizure made under this act, and a verdict shall be found for the claimant thereof, and the judge or court before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of any such seizure; and if any such action, indictment, or other suit or prosecution shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized or the value thereof, shall be entitled to no more than twopence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

XIV. *And be it further enacted*, That it shall be lawful for any such officer of the customs, excise, or sheriff, or magistrate, or other person authorized to seize as aforesaid, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient they shall give a verdict for the defendant, and in such case, or in case the plaintiff shall become non-suit, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only, provided, always, that it shall be lawful for such defendant, by leave of the court where such action shall be brought, at any time before or after issue joined, to pay money into court, as in other actions.

XV. *And be it further enacted*, That in any such action if the judge or court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than two pence damages nor to any costs of suit.

XVI. *And be it further enacted*, That all actions or suits for the recovery of any of the penalties or forfeitures imposed by this act may be commenced or prosecuted at any time within three years after the offence was committed, by reason whereof such penalties or forfeitures shall be incurred, any law, usage, or custom to the contrary notwithstanding.



XVII. *And be it further enacted*, That no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's courts in this island touching any penalty or forfeiture imposed by this act unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

XVIII. *And be it further enacted*, That this act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto and an order made by Her Majesty in council that the clauses and provisions in this act shall be rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbors of the island of Prince Edward.

\* \* This act received the royal allowance on the 3d of September, 1844, and an order was on the same day made by Her Majesty in council declaring that its clauses and provisions should be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbors of the island of Prince Edward; and notification of said royal assent and of the said order was published in the Royal Gazette, a newspaper of this island, on the 8th day of October, 1844.

### 31 VICTORIA, CHAP. 61.

AN ACT respecting fishing by foreign vessels. Assented to 22d May, 1868.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The governor may, from time to time, grant to any foreign ship, vessel, or boat, or to any ship, vessel, or boat not navigated according to the laws of the United Kingdom, or of Canada, at such rate, and for such period not exceeding one year, as he may deem expedient, a license to fish for or take, dry or cure any fish of any kind whatever, in British waters, within three marine miles of any of the coasts, bays, creeks, or harbors whatever, of Canada, not included within the limits specified and described in the first article of the convention between his late Majesty King George the Third and the United States of America, made and signed at London on the 20th day of October, 1818.

2. Any commissioned officer of Her Majesty's navy serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as she may remain within such place or distance.

3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor or so hovering for 24 hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$300, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.

5. Goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized as liable to forfeiture under this act, shall be forthwith delivered into the custody of the collector or other principal officer of the customs at the port nearest to the place where seized, to be secured and kept as other goods,



ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized are directed by the laws in force in the province in which such port is situate, to be secured and kept, or into such other custody and keeping as the governor in council, or a court of vice-admiralty shall order.

6. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo, condemned as forfeited under this act, shall, by direction of the collector or other principal officer of the customs at the port where the seizure has been secured, be sold at public auction, and the proceeds of such sale shall be applied as follows: The amount chargeable for the custody of the property seized shall first be deducted and paid over for that service: one-half of the remainder shall be paid without deduction, to the officer or person seizing the same, and the other half, after first deducting therefrom all costs incurred, shall be paid to the receiver-general of Canada, through the department of marine and fisheries; but the governor in council may, nevertheless, direct that any ship, vessel, boat, or goods, and the tackle, rigging, apparel, furniture, stores, and cargo seized and forfeited, shall be destroyed or be reserved for the public service.

7. Any penalty or forfeiture under this act may be prosecuted and recovered in any court or vice-admiralty within Canada.

8. The judge of the court of vice-admiralty may, with the consent of the person seizing any goods, ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo, as forfeited under this act, order the redelivery thereof, on security by bond to be given by the party, with two sureties, to the use of Her Majesty, and in case any goods, ship, vessel, or boat, or the tackle, rigging, apparel, furniture, stores, and cargo so redelivered is condemned as forfeited, the value thereof shall be paid into court, and distributed as above directed.

9. Her Majesty's attorney-general for Canada may sue for and recover in Her Majesty's name any penalty or forfeiture incurred under this act.

10. In case a dispute arises as to whether any seizure has or has not been legally made, or as to whether the person seizing was or was not authorized to seize under this act, oral evidence may be heard thereupon, and the burden of proving the illegality of the seizure shall be upon the owner or claimant.

11. No claim to anything seized under this act and returned into any court of vice-admiralty for adjudication shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney, or agent, and to the best of his knowledge and belief.

12. No person shall enter a claim to anything seized under this act until security has been given in a penalty not exceeding two hundred and forty dollars to answer and pay costs occasioned by such claim, and in default of security the things seized shall be adjudged forfeited, and shall be condemned.

13. No writ shall be sued out against any officer or other person authorized to seize under this act for anything done under this act, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent, and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

14. Every such action shall be brought within three months after the cause thereof has arisen.

15. If on any information or suit brought to trial under this act on account of any seizure, judgment shall be given for the claimant, and the judge or court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizures be liable to any indictment or suit on account thereof; and if any suit or prosecution be brought against any person on account of any seizure under this act, and judgment be given against him, and the court or judge shall certify that there was probable cause for the seizure, then the plaintiff, besides the thing seized or its value, shall not recover more than three and a half cents damages, nor any costs of suit, nor shall the defendant be fined more than twenty cents.

16. Any officer or person who has made a seizure under this act may, within one month after notice of action received, tender amends to the party complaining, or to his attorney or agent, and may plead such tender.

17. All actions for the recovery of penalties or forfeitures imposed by this act must be commenced within three years after the offense committed.

18. No appeal shall be prosecuted from any decree, or sentence of any court touching any penalty or forfeiture imposed by this act, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

19. In cases of seizure under this act, the governor in council may, by order, direct a stay of proceedings; and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as may be deemed right.

20. The several provisions of this act shall apply to any foreign ship, vessel, or boat in or upon the inland waters of Canada; and the provisions hereinbefore contained in respect to any proceedings in a court of vice-admiralty shall, in the case of any foreign ship, vessel, or boat, in or upon the inland waters of Canada, apply to, and any penalty or forfeiture in respect thereof shall be prosecuted and recovered in one of the superior courts of the province within which such cause of prosecution may arise.

21. Neither the ninety-fourth chapter of the Revised Statutes of Nova Scotia (third series), "Of the coast and deep-sea fisheries," nor the act of the legislature of the Province of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, chapter thirty-five amending the same, nor the act of the legislature of the province of New Brunswick passed in the sixteenth year of Her Majesty's reign, chapter sixty-nine, entitled "An act relating to the coast fisheries and for the prevention of illicit trade," shall apply to any case to which this act applies; and so much of the said chapter and of each of the said acts as makes provision for cases provided for by this act, is hereby declared to be inapplicable to such cases.

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### 33 VICTORIA, CHAP. 15.

**AN ACT to amend the act respecting fishing by foreign vessels. Assented to 12th May, 1870.**

Whereas it is expedient, for the more effectual protection of the in-shore fisheries of Canada against intrusion by foreigners, to amend the act entitled "An act respecting fishing by foreign vessels," passed in the thirty-first year of Her Majesty's reign: Therefore, Her Majesty by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The third section of the above cited act shall be, and is hereby repealed, and the following section is enacted in its stead:

3. "Any one of such officers or persons as are above-mentioned may bring any ship, vessel, or boat being within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master, or person in command, shall not truly answer the questions put to him in such examination, he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat, under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

2. This act shall be construed as one with the said act "respecting fishing by foreign vessels."

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### 34 VICTORIA, CHAP. 23.

**AN ACT further to amend the act respecting fishing by foreign vessels. Assented to April 14, 1871.**

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The fifth section of the act respecting fishing by foreign vessels, passed in the thirty-first year of Her Majesty's reign, chapter sixty-one, is hereby repealed, and the following section is hereby enacted in its stead:

"5. Goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized as liable to forfeiture under this act shall be forthwith delivered into the custody of such fishery officer, or customs officer, or other person as the minister of marine and fisheries may from time to time direct, or retained by the officer making the seizure in his own custody, if so directed by the minister, in either case to be secured and kept as other goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized are directed by the laws in force in the province in which the seizure is made, to be secured and kept."

2. The sixth section of the said act is hereby repealed, and the following section is hereby enacted in its stead:

"6. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo condemned as forfeited under this act, shall be sold by public auction, by direction of the officer having the custody thereof, under the provisions of the next preceding section of this act, and under regulations to be from time to time made by the governor in council; and the proceeds of every such sale shall be subject to the control of the minister of marine and fisheries, who shall first pay therefrom all nec-

essary costs and expenses of custody and sale, and the governor in council may from time to time apportion three-fourths or less of the net remainder among the officers and crew of any Queen's ship or Canadian Government vessel, from on board of which the seizure was made, as he may think right, reserving for the Government and paying over to the receiver-general at least one-fourth of such net remainder to form part of the consolidated revenue fund of Canada; but the governor in council may, nevertheless, direct that any goods, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo, seized and forfeited, shall be destroyed, or be reserved for the public service."

3. This act shall be construed as one with the act hereby amended; and the sixth section of the said act, as contained in the second section of this act, shall apply to all goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo, condemned under the said act before the passing of this act, and to the proceeds of the sale thereof, remaining to be applied and paid at the time of the passing of this act.

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46 VICTORIA, CHAP. 27.

AN ACT to extend to British Columbia the act relating to fishing by foreign vessels. Assented to 25th May, 1883.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. The act thirty-first Victoria, chapter sixty-one, intituled "An act respecting fishing by foreign vessels," is hereby extended to the Province of British Columbia.

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No. 195.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, July 2, 1886.

SIR: It is my unpleasant duty promptly to communicate to you the telegraphic report to me by the United States consul-general at Halifax, that the schooner *City Point*, of Portland, Me., arrived at the port of Shelburne, Nova Scotia, landed two men, obtained water, and is detained by the authorities until further instructions are received from Ottawa.

The case as thus reported is an infringement on the ordinary rights of international hospitality, and constitutes a violation of treaty stipulations and commercial privileges, evincing such unfriendliness to the citizens of the United States as is greatly to be deplored, and which I hold it to be the responsible duty of the Government of Great Britain promptly to correct.

I have, &c.,

T. F. BAYARD.

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No. 196.

*Sir L. West to Mr. Bayard.*

WASHINGTON, July 3, 1886. [Received July 6.]

SIR: I have the honor to acknowledge the receipt of your note of the 2d, reporting the detention of the American schooner *City Point*, of Portland, Me., by the authorities of Shelburne, Nova Scotia.

I have, &c.,

L. S. SACKVILLE WEST.



No. 197.

*Sir L. West to Mr. Bayard.*

WASHINGTON, July 3, 1886. [Received July 6.]

SIR: With reference to your note of the 29th of May, I have the honor to inform you that I am instructed by the Earl of Rosebery to state that the matters therein referred to will receive the careful attention of Her Majesty's Government after the necessary communication with the Dominion Government.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 198.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
Washington, July 10, 1886.

SIR: On the 2d of June last I had the honor to inform you that dispatches from Eastport in Maine had been received, reporting threats by the customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters—in the pursuance of legitimate trade.

To this note I have not had the honor of a reply.

To-day Mr. C. A. Boutelle, M. C. from Maine, informs me that American boats visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring from the Canadian weirs, for canning, had been driven away by the Dominion cruiser Middleton.

Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of citizens of the United States may not be thus invaded and subjected to unfriendly discrimination.

I have, &amp;c.,

T. F. BAYARD.

No. 199.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
Washington, July 10, 1886.

SIR: I have the honor to inform you that I am in receipt of a report from the consul general of the United States at Halifax, accompanied by sworn testimony stating that the Novelty, a duly registered merchant steam-vessel of the United States, has been denied the right to take in steam-coal, or purchase ice, or transship fish in bond to the United States, at Pictou, Nova Scotia.

It appears that, having reached that port on the 1st instant and finding the customs office closed on account of a holiday, the master of the *Novelty* telegraphed to the minister of marine and fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above; that he received, in reply, a telegram reciting with certain inaccurate and extended application the language of Article I of the treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government of the United States and that of Her Britannic Majesty; that on entering and clearing the *Novelty* on the following day at the custom-house, the collector stated that his instructions were contained in the telegram the master had received; and that, the privilege of coaling being denied, the *Novelty* was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty will be held liable.

I have, &c.,

T. F. BAYARD.

No. 200.

*Mr. Hardinge to Mr. Bayard.*

BRITISH LEGATION,  
Washington, July 12, 1886. [Received July 13.]

SIR: I have the honor to acknowledge the receipt of your letter to Sir Lionel West, of the 10th instant, protesting against the interference of the Dominion cruiser *Middleton* in preventing American boats from visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring from the Canadian weirs for canning; and I have the honor to state that I will not fail to acquaint Her Majesty's Government with your views on this subject.

I have, &c.,

CHARLES HARDINGE.

No. 201.

*Mr. Hardinge to Mr. Bayard.*

BRITISH LEGATION,  
Washington, July 12, 1886. [Received July 13.]

SIR: I have the honor to acknowledge the receipt of your note to Sir L. West of the 10th instant, protesting against the proceedings of the Canadian authorities at Pictou, Nova Scotia, in denying to the steam-vessel *Novelty*, of the United States, the right to take in steam-coal, purchase ice, or transship fish in bond to the United States.

I have, &c.,

CHARLES HARDINGE.

## No. 202.

*Mr. Bayard to Mr. Hardinge.*DEPARTMENT OF STATE,  
*Washington, July 16, 1886.*

SIR: I have just received through the honorable C. A. Boutelle, M. C., the affidavit of Stephen R. Balkam, alleging his expulsion from the harbor of St. Andrews, New Brunswick, by Captain Kent, of the Dominion cruiser Middleton, and the refusal to permit him to purchase fish caught and sold by Canadians, for the purpose of canning as sardines.

The action of Captain Kent seems to be a gross violation of ordinary commercial privileges against an American citizen proposing to transact his customary and lawful trade and not prepared or intending in any way to fish or violate any local law or regulation or treaty stipulation.

I trust instant instructions to prevent the recurrence of such unfriendly and unlawful treatment of American citizens may be given to the offending officials at St. Andrews, and reparation be made to Mr. Balkam.

I have, &c.,

T. F. BAYARD.

## No. 203.

*Mr. Hardinge to Mr. Bayard.*BRITISH LEGATION,  
*Washington, July 17, 1886. [Received July 19.]*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, protesting against the action of Captain Kent, of the Dominion cruiser General Middleton, in expelling Stephen R. Balkam from the harbor of St. Andrews, New Brunswick, and in refusing to permit him to purchase fish, caught and sold by Canadians, for the purpose of canning as sardines.

I have, &c.,

CHARLES HARDINGE.

## No. 204.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
*Washington, July 30, 1886.*

SIR: It is my duty to draw your attention to an infraction of the stipulations of the treaty between the United States of America and Great Britain, concluded October 20, 1818.

By the provisions of Article I of that convention the liberty to take fish of every kind, forever, in common with the subjects of His Britannic Majesty is secured to the inhabitants of the United States "on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of New-



foundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands," and on the other coasts and shores in the said article set forth.

Notwithstanding these plain provisions, I regret to be obliged to inform you that by the affidavit of the master of the American fishing vessel Thomas F. Bayard, that being at Bonne Bay, which is on the western coast of Newfoundland within the limits specified in Article I of the convention referred to, the master of the said vessel was formally notified by one N. N. Taylor, the officer of customs at that point, that his vessel would be seized if he attempted to obtain a supply of fish for bait or for any other transaction in connection with fishing operations within three marine miles of that coast.

To avoid the seizure of his vessel the master broke up his voyage and returned home.

I am also in possession of the affidavit of Alexander T. Eachern, master of the American fishing schooner Mascot, who entered Port Amherst, Magdalen Islands, and was there threatened by the customs official with seizure of his vessel if he attempted to obtain bait for fishing or to take a pilot.

These are flagrant violations of treaty rights of their citizens for which the United States expect prompt remedial action by Her Majesty's Government; and I have to ask that such instructions may be issued forthwith to the provincial officials of Newfoundland and of the Magdalen Islands as will cause the treaty rights of citizens of the United States to be duly respected.

For the losses occasioned in the two cases I have mentioned, compensation will hereafter be expected from Her Majesty's Government when the amount shall have been accurately ascertained.

I have, &c.,

T. F. BAYARD.

No. 205.

*Mr. Hardinge to Mr. Bayard.*

BRITISH LEGATION,  
*Washington, July 31, 1886. [Received August 2.]*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, drawing my attention to an alleged infraction of the stipulations of the treaty of October 20, 1818, by the Newfoundland authorities at Bonne Bay, in threatening the master of the American fishing vessel Thomas F. Bayard with seizure of his ship in case of his attempting to obtain fish for bait or for any other transaction in connection with fishing operations within three marine miles of that coast; also, to the case of the United States fishing schooner Mascot, at Port Amherst, Magdalen Islands.

I have, &c.,

CHARLES HARDINGE.

No. 206.

*Mr. Hardinge to Mr. Bayard.*

BRITISH LEGATION,  
*Washington, August 2, 1886. [Received August 3.]*

SIR: With reference to the several communications received by Her Majesty's legation referring to the action of the Canadian authorities in connection with the present position of the North American fisheries question, I have the honor to forward to you herewith, in compliance with instructions which I have received from the Earl of Rosebery, printed copies of three dispatches and their inclosures addressed by his lordship to Her Majesty's minister on the 23d ultimo, stating the views of Her Majesty's Government, in reply to your notes to Sir L. West of the 10th, 20th, 29th May, and 14th June.

I have, &c.,

CHARLES HARDINGE.

[Inclosure 1 in Mr. Hardinge's note of August 2, 1886.]

*The Earl of Rosebery to Sir L. West.*

FOREIGN OFFICE, *July 23, 1886.*

SIR: I have received your dispatch No. 28 (treaty), of the 11th of May last, inclosing a copy of a note addressed to you by Mr. Bayard, in which, whilst expressly referring to the seizure by the Canadian authorities of the American fishing vessels Joseph Story and David J. Adams, he discusses at length the present position of the North American fisheries question.

I have also received a communication upon the same subject from the United States minister at this court, dated the 2d June last, which, although advancing arguments of a somewhat different character, is substantially addressed to the consideration of the same question.

I think it therefore desirable to reply to these two communications together in the present dispatch, of which I shall hand a copy to Mr. Phelps.

The matter is one involving the gravest interests of Canada; and, upon receipt of the communications above mentioned, I lost no time in requesting the secretary of state for the colonies to obtain from the Government of the Dominion an expression of their views thereon. I now inclose a copy of an approved report of the Canadian privy council, in which the case of Canada is so fully set forth that I think it would be desirable, as a preliminary step to the further discussion of the questions involved in this controversy, to communicate a copy of it to Mr. Bayard, as representing the views of the Dominion Government; and I have to request that, in so doing, you will state that Her Majesty's Government will be glad to be favored with any observations which Mr. Bayard may desire to make thereon.

In regard to those portions of Mr. Phelps's note of the 2d June, in which he calls in question the competence of the Canadian authorities under existing statutes, whether imperial or colonial, to effect seizures of United States fishing vessels under circumstances such as those which appear to have led to the capture of the David J. Adams, I have to observe that Her Majesty's Government do not feel themselves at present in a position to discuss that question, which is now occupying the attention of the courts of law in the Dominion, and which may possibly form the subject of an appeal to the judicial committee of Her Majesty's privy council in England.

It is believed that the courts in Canada will deliver judgment in the above cases very shortly; and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an opinion upon them, either as to the facts or the legality of the action taken by the colonial authorities.

I do not, therefore, conceive it to be at present necessary to make any specific reply to Mr. Bayard's further notes of the 11th and 12th May and 1st, 2d, and 7th June last. But with regard to his note of the 20th May, relative to the seizure of the United States fishing vessel Jennie and Julia, I inclose for communication to Mr. Bayard a copy of a report from the Canadian minister of marine and fisheries dealing with this case.

I cannot, however, close this dispatch without adding that Her Majesty's Government entirely concur in that passage of the report of the Canadian privy council, in which it is observed that "if the provisions of the convention of 1818 have become inconvenient to either contracting party, the utmost that good-will and fair dealing can suggest is that the terms shall be reconsidered."

It is assuredly from no fault on the part of Her Majesty's Government that the question has now been relegated to the terms of the convention of 1818. They have not ceased to express their anxiety to commence negotiations, and they are now prepared to enter upon a frank and friendly consideration of the whole question with the most earnest desire to arrive at a settlement consonant alike with the rights and interests of Canada and of the United States.

Where, as in the present case, conflicting interests are brought into antagonism by treaty stipulations the strict interpretation of which has scarcely been called in question, the matter appears to Her Majesty's Government to be pre-eminently one for friendly negotiation.

I am, &c.

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[Inclosure 1 in Earl Rosebery's instruction of July 23, 1886.]

*Report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general on the 14th June, 1886.*

The committee of the privy council have had under consideration a report from the minister of marine and fisheries upon the communications dated 10th and 20th May last from the Hon. Mr. Bayard, Secretary of State of the United States, to Her Majesty's minister at Washington, in reference to the seizure of the American fishing-vessel David J. Adams.

The committee concur in the annexed report, and they advise that your excellency be moved to transmit a copy thereof to the Right Hon. the Secretary of State for the Colonies.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,  
Clerk, Privy Council, Canada.

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The undersigned having had his attention called by your excellency to a communication from Mr. Bayard, Secretary of State of the United States, dated the 10th May, and addressed to Her Majesty's minister at Washington, and to a further communication from Mr. Bayard, dated the 20th May instant, in reference to the seizure of the American fishing vessel David J. Adams, begs leave to submit the following observations thereon:

Your excellency's Government fully appreciates and reciprocates Mr. Bayard's desire that the administration of the laws regulating the commercial interests and the mercantile marine of the two countries might be such as to promote good feeling and mutual advantage.

Canada has given many indisputable proofs of an earnest desire to cultivate and extend her commercial relations with the United States, and it may not be without advantage to recapitulate some of those proofs.

For many years before 1854 the maritime provinces of British North America had complained to Her Majesty's Government of the continuous invasion of their inshore fisheries (sometimes accompanied, it was alleged, with violence) by American fishermen and fishing vessels.

Much irritation naturally ensued, and it was felt to be expedient by both Governments to put an end to this unseemly state of things by treaty, and at the same time to arrange for enlarged trade relations between the United States and the British North American colonies. The reciprocity treaty of 1854 was the result, by which were not only our inshore fisheries opened to the Americans, but provision was made for the free interchange of the principal natural products of both countries, including those of the sea. Peace was preserved on our waters, and the volume of international trade steadily increased during the existence of this treaty, and until it was terminated in 1866, not by Great Britain, but by the United States.

In the following year Canada (then become a dominion and united to Nova Scotia and New Brunswick) was thrown back on the convention of 1818, and obliged to fit out a marine police to enforce the laws and defend her rights, still desiring, however, to cultivate friendly relations with her great neighbor, and not too suddenly to deprive the American fishermen of their accustomed fishing grounds and means of livelihood. She readily acquiesced in the proposal of Her Majesty's Government for the tempo-



rary issue of annual licenses to fish on payment of a moderate fee. Your excellency is aware of the failure of that scheme. A few licenses were issued at first, but the applications for them soon ceased, and the American fishermen persisted in forcing themselves into our waters "without leave or license."

Then came the recurrence, in an aggravated form, of all the troubles which had occurred anterior to the reciprocity treaty. There were invasions of our waters, personal conflicts between our fishermen and American crews, the destruction of nets, the seizure and condemnation of vessels, and intense consequent irritation on both sides.

This was happily put an end to by the Washington treaty of 1871. In the interval between the termination of the first treaty and the ratification of that by which it was eventually replaced, Canada on several occasions pressed, without success, through the British minister at Washington, for a renewal of the reciprocity treaty or for the negotiation of another on a still wider basis.

When in 1874 Sir Edward Thornton, then British minister at Washington, and the late Hon. George Brown, of Toronto, were appointed joint plenipotentiaries for the purpose of negotiating and concluding a treaty relating to fisheries, commerce, and navigation, a provisional treaty was arranged by them with the United States Government, but the Senate decided that it was not expedient to ratify it, and the negotiation fell to the ground.

The treaty of Washington, while it failed to restore the provisions of the treaty of 1854, for reciprocal free trade (except in fish), at least kept the peace, and there was tranquillity along our shores until July, 1885, when it was terminated again by the United States Government and not by Great Britain.

With a desire to show that she wished to be a good neighbor, and in order to prevent loss and disappointment on the part of the United States fishermen by their sudden exclusion from her waters in the middle of the fishing season, Canada continued to allow them, for six months, all the advantages which the rescinded fishery clauses had previously given them, although her people received from the United States none of the corresponding advantages which the treaty of 1871 had declared to be an equivalent for the benefits secured thereby to the American fishermen.

The President, in return for this courtesy, promised to recommend to Congress the appointment of a joint commission of the two Governments of the United Kingdom and the United States to consider the fishery question, with permission also to consider the whole state of trade relations between the United States and Canada.

This promise was fulfilled by the President, but the Senate rejected his recommendation and refused to sanction the commission.

Under these circumstances Canada, having exhausted every effort to procure an amicable arrangement, has been driven again to fall back upon the convention of 1818, the provisions of which she is now enforcing and will enforce, in no punitive or hostile spirit as Mr. Bayard supposes, but solely in protection of her fisheries, and in vindication of the right secured to her by treaty.

Mr. Bayard suggests that "the treaty of 1818 was between two nations—the United States of America and Great Britain—who, as the contracting parties, can alone apply authoritative interpretation thereto, and enforce its provisions by appropriate legislation."

As it may be inferred from this statement that the right of the Parliament of Canada to make enactments for the protection of the fisheries of the Dominion, and the power of the Canadian officers to protect those fisheries, are questioned, it may be well to state at the outset the grounds upon which it is conceived by the undersigned that the jurisdiction in question is clear beyond a doubt.

1. In the first place the undersigned would ask it to be remembered that the extent of the jurisdiction of the Parliament of Canada is not limited (nor was that of the Provinces before the union) to the sea-coast, but extends for three marine miles from the shore as to all matters over which any legislative authority can in any country be exercised within that space. The legislation which has been adopted on this subject by the Parliament of Canada (and previously to confederation by the Provinces) does not reach beyond that limit. It may be assumed that, in the absence of any treaty stipulation to the contrary, this right is so well recognized and established by both British and American law, that the grounds on which it is supported need not be stated here at large. The undersigned will merely add, therefore, to this statement of the position, that so far from the right being limited by the convention of 1818 that convention expressly recognizes it.

After renouncing the liberty to "take, cure, or dry fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Majesty's dominions in America," there is a stipulation that while American fishing vessels shall be admitted to enter such bays, &c., "for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, they shall be under such restrictions as may be necessary to prevent their taking, curing, or drying fish therein, or in any other manner whatever abusing the privileges reserved to them."

2. Appropriate legislation on this subject was, in the first instance, adopted by the Parliament of the United Kingdom. The imperial statute 59 Geo. III, cap. 38, was enacted in the year following the convention, in order to give that convention force and effect. That statute declared that, except for the purposes before specified, it should "not be lawful for any person or persons, not being a natural-born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever within three marine miles of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified and described in the first article of the said convention, and that if such foreign ship, vessel, or boat, or any person or persons on board thereof shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbors within such parts of His Majesty's dominions in America, out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned by such and the like ways, means, and methods, and in the same courts as ships, vessels, or boats may be forfeited, seized, prosecuted, and condemned for any offense against any laws relating to the revenue of customs, or the laws of trade and navigation, under any act or acts of the Parliament of Great Britain or the United Kingdom of Great Britain and Ireland, provided that nothing contained in this act shall apply or be construed to apply to the ships or subjects of any prince, power, or state in amity with His Majesty who are entitled by treaty with His Majesty to any privileges of taking, drying, or curing fish on the coasts, bays, creeks, or harbors or within the limits in this act described. Provided always, that it shall and may be lawful for any fishermen of the said United States to enter into any such bays or harbors of His Britannic Majesty's dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever, subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying, or curing fish in the said bays or harbors, or in any other manner whatever, abusing the said privileges by the said treaty and this act reserved to them, and as shall, for that purpose, be imposed by any order or orders to be from time to time made by His Majesty in council under the authority of this act, and by any regulations which shall be issued by the governor or person exercising the office of governor in any such parts of His Majesty's dominions in America, under or in pursuance of any such order in council as aforesaid. And that if any person or persons upon requisition made by the governor of Newfoundland, or the person exercising the office of governor, or by any governor in person exercising the office of governor in any other parts of His Majesty's dominions in America, as aforesaid, or by any officer or officers acting under such governor or person exercising the office of governor, in the execution of any orders or instructions from His Majesty in council, shall refuse to depart from such bays or harbors, or if any person or persons shall refuse, or neglect, to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act, every such person so refusing or otherwise offending against this act shall forfeit the sum of two hundred pounds, to be recovered in the superior court of judicature of the island of Newfoundland, or in the superior court of judicature of the colony or settlement within or near to which such offense shall be committed, or by bill, plaint, or information in any of His Majesty's courts of record at Westminster, one moiety of such penalty to belong to His Majesty, his heirs, and successors, and the other moiety to such person or persons as shall sue or prosecute for the same."

The acts passed by the Provinces now forming Canada, and also by the Parliament of Canada (now noted in the margin)\* are to the same effect, and may be said to be merely declaratory of the law as established by the imperial statute.

3. The authority of the legislatures of the Provinces, and, after confederation, the authority of the Parliament of Canada, to make enactments to enforce the provisions of the convention, as well as the authority of Canadian officers to enforce those acts, rests on well-known constitutional principles.

Those legislatures existed, and the Parliament of Canada now exists, by the authority of the Parliament of the United Kingdom of Great Britain and Ireland, which is one of the nations referred to by Mr. Bayard as the "contracting parties." The colonial statutes have received the sanction of the British sovereign, who, and not the nation, is actually the party with whom the United States made the convention. The officers who are engaged in enforcing the acts of Canada or the laws of the Empire, are Her Majesty's officers, whether their authority emanates directly from the

\* Dominion acts, 31 Vict., cap. 6; 33 Vict., cap. 16; now incorporated in Revised Statutes of 1886, cap. 90. Nova Scotia acts, Revised Statutes, 3d series, cap. 94, 29 Vict. (1866), cap. 35. New Brunswick acts, 16 Vict. (1853), cap. 69. Prince Edward Island acts, 6 Vict. (1843), cap. 14.



Queen, or from her representative, the governor-general. The jurisdiction thus exercised cannot, therefore, be properly described in the language used by Mr. Bayard as a supposed and therefore questionable delegation of jurisdiction by the Imperial Government of Great Britain. Her Majesty governs in Canada as well as in Great Britain; the officers of Canada are her officers; the statutes of Canada are her statutes, passed on the advice of her Parliament sitting in Canada.

It is, therefore, an error to conceive that because the United States and Great Britain were, in the first instance, the contracting parties to the treaty of 1818, no question arising under that treaty can be "responsibly dealt with," either by the Parliament or by the authorities of the Dominion.

The raising of this objection now is the more remarkable, as the Government of the United States has long been aware of the necessity of reference to the colonial legislatures in matters affecting their interests.

The treaties of 1854 and 1871 expressly provide that, so far as they concerned the fisheries or trade relations with the provinces, they should be subject to ratification by their several legislatures; and seizures of American vessels and goods, followed by condemnation for breach of the provincial customs laws, have been made for forty years without protest or objection on the part of the United States Government.

The undersigned, with regard to this contention of Mr. Bayard, has further to observe that in the proceedings which have recently been taken for the protection of the fisheries, no attempt has been made to put any special or novel interpretation on the convention of 1818. The seizures of the fishing vessels have been made in order to enforce the explicit provisions of that treaty, the clear and long established provisions of the imperial statute and of the statutes of Canada expressed in almost the same language.

The proceedings which have been taken to carry out the law of the Empire in the present case are the same as those which have been taken from time to time during the period in which the convention has been in force, and the seizures of vessels have been made under process of the imperial court of vice-admiralty established in the provinces of Canada.

Mr. Bayard further observes that since the treaty of 1818, "a series of laws and regulations affecting the trade between the North American provinces and the United States have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants," and that "the independent and yet concurrent action of the two Governments has effected a gradual extension from time to time of the provisions of article 1 of the convention of the 3d of July, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the colonial possessions of Great Britain in North America and the West Indies within the limits of that treaty."

The undersigned has not been able to discover, in the instances given by Mr. Bayard, any evidence that the laws and regulations affecting the trade between the British North American Provinces and the United States, or that "the independent and yet concurrent action of the two Governments" have either extended or restricted the terms of the convention of 1818, or affected in any way the right to enforce its provisions according to the plain meaning of the articles of the treaty; on the contrary, a reference to the eighteenth article of the Washington treaty will show that the contracting parties made the convention the basis of the further privileges granted by the treaty, and it does not allege that its provisions are in any way extended or affected by subsequent legislation or acts of administration.

Mr. Bayard has referred to the proclamation of President Jackson in 1830, creating "reciprocal commercial intercourse on terms of perfect equality of flag" between the United States and the British American dependencies, and has suggested that these "commercial privileges have since received a large extension, and that in some cases 'favours' have been granted by the United States without equivalent 'concession,' such as the exemption granted by the shipping act of the 26th June, 1884, amounting to one-half of the regular tonnage dues on all vessels from British North America and West Indies entering ports of the United States."

He has also mentioned under this head "the arrangement for the transit of goods, and the remission by proclamation as to certain British ports and places of the remainder of the tonnage tax on evidence of equal treatment being shown" to United States vessels.

The proclamation of President Jackson in 1830 had no relation to the subject of the fisheries, and merely had the effect of opening United States ports to British vessels on terms similar to those which had already been granted in British ports to vessels of the United States. The object of these "laws and regulations" mentioned by Mr. Bayard was purely of a commercial character, while the sole purpose of the convention of 1818 was to establish and define the rights of the citizens of the two countries in relation to the fisheries on the British North American coast.



Bearing this distinction in mind, however, it may be conceded that substantial assistance has been given to the development of commercial intercourse between the two countries.

But legislation in that direction has not been confined to the Government of the United States, as indeed Mr. Bayard has admitted in referring to the case of the imperial shipping and navigation act of 1849.

For upwards of forty years, as has already been stated, Canada has continued to evince her desire for a free exchange of the chief products of the two countries. She has repeatedly urged the desirability of the fuller reciprocity of trade which was established during the period in which the treaty of 1854 was in force.

The laws of Canada with regard to the registry of vessels, tonnage dues, and shipping generally, are more liberal than those of the United States. The ports of Canada in inland waters are free to vessels of the United States, which are admitted to the use of her canals on equal terms with Canadian vessels.

Canada allows free registry to ships built in the United States and purchased by British citizens, charges no tonnage or light dues on United States shipping, and extends a standing invitation for a large measure of reciprocity in trade by her tariff legislation.

Whatever relevancy, therefore, the argument may have to the subject under consideration, the undersigned submits that the concessions which Mr. Bayard refers to as "favors" granted by United States can hardly be said not to have been met by equivalent concessions on the part of the Dominion, and inasmuch as the disposition of Canada continues to be the same, as was evinced in the friendly legislation just referred to, it would seem that Mr. Bayard's charges of showing "hostility to commerce under the guise of protection to inshore fisheries," or of interrupting ordinary commercial intercourse by harsh measures and unfriendly administration, is hardly justified.

The questions which were in controversy between Great Britain and the United States prior to 1818 related not to shipping and commerce, but to the claims of United States fishermen to fish in waters adjacent to the British North American Provinces.

Those questions were definitely settled by the convention of that year, and although the terms of that convention have since been twice suspended, first by the treaty of 1854, and subsequently by that of 1871, after the lapse of each of these two treaties the provisions made in 1818 came again into operation, and were carried out by the Imperial and colonial authorities without the slightest doubt being raised as to their being in full force and vigor.

Mr. Bayard's contention that the effect of the legislation which has taken place under the convention of 1818, and of executive action thereunder, would be "to expand the restrictions and renunciations of that treaty which related solely to the inshore fishing within the three-mile limit, so as to affect the deep-sea fisheries," and "to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit these inshore waters for the objects of shelter and repair of damages, and purchasing wood and obtaining water," appears to the undersigned to be unfounded. The legislation referred to in no way affects those privileges, nor has the Government of Canada taken any action towards their restriction. In the cases of the recent seizures, which are the immediate subject of Mr. Bayard's letter, the vessels seized had not resorted to Canadian waters for any one of the purposes specified in the convention of 1818 as lawful. They were United States fishing vessels, and, against the plain terms of the convention, had entered Canadian harbors. In doing so the David J. Adams was not even possessed of a permit "to touch and trade," even if such a document could be supposed to divest her of the character of a fishing vessel.

The undersigned is of opinion that while, for the reasons which he has advanced, there is no evidence to show that the Government of Canada has sought to expand the scope of the convention of 1818 or to increase the extent of its restrictions, it would not be difficult to prove that the construction which the United States seeks to place on that convention would have the effect of extending very largely the privileges which their citizens enjoy under its terms. The contention that the changes which may from time to time occur in the habits of the fish taken off our coasts, or in the methods of taking them, should be regarded as justifying a periodical revision of the terms of the treaty, or a new interpretation of its provisions, cannot be acceded to. Such changes may from time to time render the conditions of the contract inconvenient to one party or the other, but the validity of the agreement can hardly be said to depend on the convenience or inconvenience which it imposes from time to time on one or other of the contracting parties. When the operation of its provisions can be shown to have become manifestly inequitable, the utmost that good-will and fair dealing can suggest is that the terms should be reconsidered and a new arrangement entered into; but this the Government of the United States does not appear to have considered desirable.

It is not, however, the case that the convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforward to enjoy in following their vocation, so far as those rights could be affected by facilities for access to the shores or waters of the British Provinces, or for intercourse with their people. It is therefore no undue expansion of the scope of that convention to interpret strictly those of its provisions by which such access is denied, except to vessels requiring it for the purposes specifically described.

Such an undue expansion would, upon the other hand, certainly take place if, under cover of its provisions, or of any agreements relating to general commercial intercourse which may have since been made, permission were accorded to United States fishermen to resort habitually to the harbors of the Dominion, not for the sake of seeking safety for their vessels or of avoiding risk to human life, but in order to use those harbors as a general base of operations from which to prosecute and organize with greater advantage to themselves the industry in which they are engaged.

It was in order to guard against such an abuse of the provisions of the treaty that amongst them was included the stipulation that not only should the inshore fisheries be reserved to British fishermen, but that the United States should renounce the right of their fishermen to enter the bays or harbors excepting for the four specified purposes, which do not include the purchase of bait or other appliances, whether intended for the deep-sea fisheries or not.

The undersigned, therefore, cannot concur in Mr. Bayard's contention that "to prevent the purchase of bait, or any other supply needed for deep-sea fishing, would be to expand the convention to objects wholly beyond the purview, scope, and intent of the treaty, and to give to it an effect never contemplated."

Mr. Bayard suggests that the possession by a fishing vessel of a permit to "touch and trade" should give her a right to enter Canadian ports for other than the purposes named in the treaty, or, in other words, should give her perfect immunity from its provisions. This would amount to a practical repeal of the treaty, because it would enable a United States collector of customs, by issuing a license, originally only intended for purposes of domestic customs regulation, to give exemption from the treaty to every United States fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies loses its force when it is remembered that the convention of 1818 contained no restriction on British vessels, and no renunciation of any privileges in regard to them.

Mr. Bayard states that in the proceedings prior to the treaty of 1818 the British commissioners proposed that United States fishing vessels should be excluded "from carrying also merchandise," but that this proposition "being resisted by the American negotiators, was abandoned," and goes on to say, "this fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify vessels from also trading in the regular ports of entry." A reference to the proceedings alluded to will show that the proposition mentioned related only to United States vessels visiting those portions of the coast of Labrador and Newfoundland on which the United States fishermen had been granted the right to fish, and to land for drying and curing fish, and the rejection of the proposal can, at the utmost, be supposed only to indicate that the liberty to carry merchandise might exist without objection in relation to those coasts, and is no ground for supposing that the right extends to the regular ports of entry, against the express words of the treaty.

The proposition of the British negotiators was to append to Article I the following words: "It is, therefore, well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of his Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States."

It was also proposed to limit them to having on board such goods as might "be necessary for the prosecution of the fishery or the support of the fishermen while engaged therein, or in the prosecution of their voyages to and from the fishing grounds."

To this the American negotiators objected, on the ground that the search for contraband goods, and the liability to seizure for having them in possession, would expose the fishermen to endless vexation, and, in consequence, the proposal was abandoned. It is apparent, therefore, that this proviso in no way referred to the bays or harbors outside of the limits assigned to the American fishermen, from which bays and harbors it was agreed, both before and after this proposition was discussed, that United States fishing vessels were to be excluded for all purposes other than for shelter and repairs, and purchasing wood and obtaining water.

If, however, weight is to be given to Mr. Bayard's argument that the rejection of a proposition advanced by either side during the course of the negotiations should be held to necessitate an interpretation adverse to the tenor of such proposition, that



argument may certainly be used to prove that American fishing vessels were not intended to have the right to enter Canadian waters for bait to be used even in the prosecution of the deep-sea fisheries. The United States negotiators in 1818 made the proposition that the words "and bait" be added to the enumeration of the objects for which these fishermen might be allowed to enter, and the proviso as first submitted had read "provided, however, that American fishermen shall be permitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait." The addition of the two last words was, however, resisted by the British plenipotentiaries, and their omission acquiesced in by their American colleagues. It is, moreover, to be observed that this proposition could only have had reference to the deep-sea fishing, because the inshore fisheries had already been specifically renounced by the representatives of the United States.

In addition to this evidence, it must be remembered that the United States Government admitted, in the case submitted by them before the Halifax commission in 1877, that neither the convention of 1818 nor the treaty of Washington conferred any right or privilege of trading on American fishermen. The British case claimed compensation for the privilege which had been given since the ratification of the latter treaty to United States fishing vessels "to transfer cargoes, to outfit vessels, by supplies, obtain ice, engage sailors, procure bait, and traffic generally in British ports and harbors."

This claim was, however, successfully resisted, and in the United States case it is maintained "that the various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover, the treaty does not provide for any possible compensation for such privileges."

Now, the existing laws referred to in this extract are the various statutes passed by the imperial and colonial legislatures to give effect to the treaty of 1818, which, it is admitted in the said case, could at any time have been enforced (even during the existence of the Washington treaty), if the Canadian authorities had chosen to do so.

Mr. Bayard on more than one occasion intimates that the interpretation of the treaty and its enforcement are dictated by local and hostile feelings, and that the main question is being "obscured by partisan advocacy and distorted by the heat of local interests," and, in conclusion, expresses a hope that "ordinary commercial intercourse shall not be interrupted by harsh measures and unfriendly administrations."

The undersigned desires emphatically to state that it is not the wish of the Government or the people of Canada to interrupt for a moment the most friendly and free commercial intercourse with the neighboring Republic.

The mercantile vessels and the commerce of the United States have at present exactly the same freedom that they have for years passed enjoyed in Canada, and the disposition of the Canadian Government is to extend reciprocal trade with the United States beyond its present limits, nor can it be admitted that the charge of local prejudice or hostile feeling is justified by the calm enforcement, through the legal tribunals of the country, of the plain terms of a treaty between Great Britain and the United States, and of the statutes which have been in operation for nearly seventy years, excepting in intervals during which (until put an end to by the United States Government) special and more liberal provisions existed in relation to the commerce and fisheries of the two countries.

The undersigned has further to call attention to the letter of Mr. Bayard of the 20th May, relating also to the seizure of the *David J. Adams* in the port of Digby, Nova Scotia.

That vessel was seized, as has been explained on a previous occasion, by the commander of the Canadian steamer *Lansdowne*, under the following circumstances:

She was a United States fishing vessel, and entered the harbor of Digby for purposes other than those for which entry is permitted by the treaty and by the imperial and Canadian statutes.

As soon as practicable, legal process was obtained from the vice-admiralty court at Halifax, and the vessel was delivered to the officer of that court. The paper referred to in Mr. Bayard's letter as having been nailed to her mast was doubtless a copy of the warrant which commanded the marshal or his deputy to make the arrest.

The undersigned is informed that there was no intention whatever of so adjusting the paper that its contents could not be read, but it is doubtless correct that the officer of the court in charge declined to allow the document to be removed. Both the United States consul-general and the captain of the *David J. Adams* were made acquainted with the reasons for the seizure, and the only ground for the statement that a respectful application to ascertain the nature of the complaint was fruitless, was that the commander of the *Lansdowne*, after the nature of the complaint had been



stated to those concerned and was published, and had become notorious to the people of both countries, declined to give the United States consul-general a specific and precise statement of the charges upon which the vessel would be proceeded against, but referred him to his superior.

Such conduct on the part of the officer of the *Lansdowne* can hardly be said to have been extraordinary under the present circumstances.

The legal proceedings had at that time been commenced in the court of vice-admiralty at Halifax, where the United States consul-general resides, and the officer at Digby could not have stated with precision, as he was called upon to do, the grounds on which the intervention of the court had been claimed in the proceedings therein.

There was not, in this instance, the slightest difficulty in the United States consul-general and those interested in the vessel obtaining the fullest information, and no information which could have been given by those to whom they applied was withheld.

Apart from the general knowledge of the offenses which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the court, and from the solicitors of the crown, and would have been furnished immediately on application to the authority to whom the commander of the *Lansdowne* requested the United States consul-general to apply. No such information could have been obtained from the paper attached to the vessel's mast.

Instructions have, however, been given to the commander of the *Lansdowne* and other officers of the marine police, that, in the event of any further seizure, a statement in writing shall be given to the master of the seized vessel of the offenses for which the vessel may be detained, and that a copy thereof shall be sent to the United States consul-general at Halifax, and to the nearest United States consular agent, and there can be no objection to the solicitor for the crown being instructed likewise to furnish the consul-general with a copy of the legal process in each case, if it can be supposed that any fuller information will thereby be given.

Mr. Bayard is correct in his statement of the reasons for which the *David J. Adams* was seized, and is now held. It is claimed that the vessel violated the treaty of 1818, and consequently the statutes which exist for the enforcement of the treaty, and it is also claimed that she violated the customs laws of Canada of 1883.

The undersigned recommends that copies of those statutes be furnished for the information of Mr. Bayard.

Mr. Bayard has, in the same dispatch, recalled the attention of Her Majesty's minister to the correspondence and action which took place in the year 1870, when the fishery question was under consideration, and especially to the instructions from the lords of the admiralty to Vice-Admiral Wellesley, in which that officer was directed to observe great caution in the arrest of American fishermen, and to confine his action to one class of offenses against the treaty. Mr. Bayard, however, appears to have attached unwarranted importance to the correspondence and instructions of 1870, when he refers to them as implying "an understanding between the two Governments," an understanding, which should, in his opinion, at other times, and under other circumstances, govern the conduct of the authorities, whether imperial or colonial, to whom under the laws of the Empire is committed the duty of enforcing the treaty in question.

When, therefore, Mr. Bayard points out the "absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the treaty of 1818" to the conditions specified under those instructions, it is necessary to recall the fact that in the year 1870 the principal cause of complaint on the part of Canadian fishermen was that the American vessels were trespassing on the inshore fishing grounds and interfering with the catch of mackerel in Canadian waters, the purchase of bait being then a matter of secondary importance.

It is probable, too, that the action of the imperial Government was influenced very largely by the prospect which then existed of an arrangement such as was accomplished in the following year by the treaty of Washington, and that it may be inferred, in view of this disposition made apparent on both sides to arrive at such an understanding, that the imperial authorities, without any surrender of imperial or colonial rights, and without acquiescing in any limited construction of the treaty, instructed the vice-admiral to confine his seizures to the more open and injurious class of offenses which were especially likely to be brought within the cognizance of the naval officers of the imperial service.

The Canadian Government, as has been already stated, for six months left its fishing grounds open to American fishermen, without any corresponding advantage in return, in order to prevent loss to those fishermen, and to afford time for the action of Congress, on the President's recommendation that a joint commission should be appointed to consider the whole question relating to the fisheries.

That recommendation has been rejected by Congress. Canadian fish is by prohibitory duties excluded from the United States market. The American fishermen clamor against the removal of those duties, and, in order to maintain a monopoly of the trade, continue against all law to force themselves into our waters and harbors, and make our shores their base for supplies, especially for bait, which is necessary to the successful prosecution of their business.

They hope by this course to supply the demand for their home market, and thus to make Canada indirectly the means of injuring her own trade.

It is surely, therefore, not unreasonable that Canada should insist on the rights secured to her by treaty. She is simply acting on the defensive, and no trouble can arise between the two countries if American fishermen will only recognize the provisions of the convention of 1818 as obligatory upon them, and until a new arrangement is made, abstain both from fishing in her waters and from visiting her bays and harbors for any purpose save those specified in the treaty.

In conclusion, the undersigned would express the hope that the discussion which has arisen on this question may lead to renewed negotiations between Great Britain and the United States, and may have the result of establishing extended trade relations between the Republic and Canada, and of removing all sources of irritation between the two countries.

GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

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[Inclosure 2 in Earl Rosebery's instruction of July 23, 1886.]

#### *Report.*

With reference to a dispatch from the British minister at Washington, to his excellency the governor-general, dated the 21st May last, and inclosing a letter from Mr. Secretary Bayard, regarding the refusal of the collector of customs at Digby, Nova Scotia, to allow the United States schooner Jennie and Julia the right of exercising commercial privileges at the said port, the undersigned has the honor to make the following observations:

It appears the Jennie and Julia is a vessel of about 14 tons register, that she was to all intents and purposes a fishing-vessel, and, at the time of her entry into the port of Digby, had fishing gear and apparatus on board, and that the collector fully satisfied himself of these facts. According to the master's declaration, she was there to purchase fresh herring only, and wished to get them direct from the weir fishermen. The collector acted upon his conviction that she was a fishing vessel, and, as such, debarred by the treaty of 1818 from entering Canadian ports for the purposes of trade. He, therefore, in the exercise of his plain duty, warned her off.

The treaty of 1818 is explicit in its terms, and by it United States fishing vessels are allowed to enter Canadian ports for shelter, repairs, wood, and water, and "for no other purpose whatever."

The undersigned is of the opinion that it cannot be successfully contended that a *bona fide* fishing vessel can, by simply declaring her intention of purchasing fresh fish for other than baiting purposes, evade the provisions of the treaty of 1818 and obtain privileges not contemplated thereby. If that were admitted, the provision of the treaty which excludes United States fishing vessels for all purposes but the four above mentioned, would be rendered null and void, and the whole United States fishing fleet be at once lifted out of the category of fishing vessels, and allowed the free use of Canadian ports for baiting, obtaining supplies, and trans-shipping cargoes.

It appears to the undersigned that the question as to whether a vessel is a fishing vessel or a legitimate trader or merchant vessel, is one of fact and to be decided by the character of the vessel and the nature of her outfit, and that the class to which she belongs is not to be determined by the simple declaration of her master that he is not at any given time acting in the character of a fisherman.

At the same time the undersigned begs again to observe that Canada has no desire to interrupt the long-established and legitimate commercial intercourse with the United States, but rather to encourage and maintain it, and that Canadian ports are at present open to the whole merchant navy of the United States on the same liberal conditions as heretofore accorded.

The whole respectfully submitted.

GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

OTTAWA, June 5, 1886.

[Inclosure 2 in Mr. Hardinge's note of August 2, 1886.]

*The Earl of Rosebery to Sir L. West.*

FOREIGN OFFICE, July 23, 1886.

SIR: I have to acknowledge the receipt of your dispatch No. 46 (treaty), of the 30th May last, inclosing a copy of a note from Mr. Bayard, in which he protests against the provisions of a bill recently introduced into the Canadian Parliament for the purpose of regulating fishing operations by foreign vessels in Canadian waters.

In reply I inclose an extract of a dispatch from the governor-general of Canada, containing observations on the subject.

I have to add that Her Majesty's Government entirely concur in the views expressed by the Marquis of Lansdowne in this extract, of which you will communicate a copy to Mr. Bayard, together with a copy of the present dispatch.

With regard to Mr. Bayard's observations in the same note respecting a customs circular and a warning issued by the Canadian authorities, and dated respectively the 7th May and the 5th March last, I have to acquaint you that these documents have now been amended so as to bring them into exact accordance with treaty stipulations; and I inclose, for communication to the United States Government, printed copies of these documents as amended.

I am, &c.

[Inclosure 1 in Earl Rosebery's second instruction of July 23, 1886.]

*The Marquis of Lansdowne to Earl Granville.*

[Extract.]

CITADEL, QUEBEC, June 7, 1886.

Her Majesty's minister at Washington has been good enough to communicate to me, for my information, copy of a note received by him from the Secretary of State of the United States, in which the bill is criticised, not so much on account of its policy, or because its introduction is regarded as inopportune and inconvenient, as upon the ground that any legislation by the Parliament of the Dominion for the purpose of interpreting and giving effect to a contract entered into by the imperial Government is beyond the competence of that Parliament, and "an assumption of jurisdiction entirely unwarranted," and therefore "wholly denied by the United States."

Your lordship is no doubt aware that legislation of this kind has been frequently resorted to by the Parliament of the Dominion, for the purpose of enforcing treaties or conventions entered into by the imperial Government. In the present case the legislation proposed was introduced, not with the object of making a change in the terms of the convention of 1818, nor with the intention of representing as breaches of the convention any acts which are not now punishable as breaches of it. What the framers of the bill sought was merely to amend the procedure by which the convention is enforced, and to do this by attaching a particular penalty to a particular breach of the convention after that breach had been proved before a competent tribunal. It must be remembered that the convention itself is silent as to the procedure to be taken in enforcing it, and that effect has accordingly been given to its provisions at different times both through the means of acts passed, on the one side, by Congress, and, on the other, by the imperial Parliament, as well as by the legislatures of the British North American Provinces previous to confederation, and since confederation by the Parliament of the Dominion. The right of the Dominion Parliament to legislate for these purposes, and the validity of such legislation as against the citizens of a foreign country has, as far as I am aware, not been seriously called in question. Such legislation, unless it is disallowed by the imperial Government, becomes part of the law of the Empire.

The Government of the United States has long been aware of the necessity of reference to the Dominion Parliament in matters affecting Canadian interests, and has, I believe, never raised any objection to such reference. The treaties of 1854 and 1871, so far as they related to the fisheries or to the commercial relations of the Dominion, were made subject to ratification by her legislature. In the same way the treaty under which fugitive criminals from the United States into Canada are surrendered, is carried into effect by means of a Canadian statute. If a foreigner commits a murder in Canada he is tried, convicted, and executed by virtue of a Canadian and not of an imperial act of Parliament. Seizures of goods and vessels for breaches of the local customs law have in like manner been made for many years past without any protest on the ground that such laws involved an usurpation of power by the colony.



Mr. Bayard's statement that the Dominion Government is seeking by its action in this matter to "invade and destroy the commercial rights and privileges secured to citizens of the United States under and by virtue of treaty stipulations with Great Britain" is not warranted by the facts of the case. No attempt has been made either by the authorities intrusted with the enforcement of the existing law or by the Parliament of the Dominion to interfere with vessels engaged in *bona fide* commercial transactions upon the coast of the Dominion. The two vessels which have been seized are both of them beyond all question fishing vessels and not traders, and therefore liable, subject to the finding of the courts, to any penalties imposed by law for the enforcement of the convention of 1818 on parties violating the terms of that convention.

When, therefore, Mr. Bayard protests against all such proceedings as being "flagrantly violative of reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain and the well-defined and publicly-proclaimed authority of both countries," and when he denies the competence of the fishery department to issue, under the convention of 1818, such a paper as the "warning," dated the 5th March, 1886, of which a copy has been supplied to your lordship, he is in effect denying to the Dominion the right of taking any steps for the protection of its own rights secured under the convention referred to.

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[Inclosure 2 in Earl Rosebery's second instruction of July 23, 1886.]

#### *Warning.*

##### *To all to whom it may concern :*

The Government of the United States having by notice terminated Articles XVIII to XXV, both inclusive, and Article XXX, known as the fishery articles of the Washington Treaty, attention is called to the following provision of the convention between the United States and Great Britain, signed at London on the 20th October, 1818 :

"ARTICLE I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish, on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement, for such purpose, with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is called to the following provisions of the act of Parliament of Canada, cap. 61, of the acts of 1868, entitled "An act respecting fishing by foreign vessels" :

"2. Any commissioned officer of Her Majesty's navy, serving on board of any vessels of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or har-

bors in Canada, and stay on board so long as she may remain within such place or distance.

"3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit \$400; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and have been found fishing or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

"4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the second section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit \$800, and shall be guilty of a misdemeanor, and upon conviction, be liable to imprisonment for a term not exceeding two years."

Of all of which you will take notice and govern yourself accordingly.

GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

DEPARTMENT OF FISHERIES,  
Ottawa, March 5, 1886.

[Inclosure 3 in Earl Rosebery's second instruction of July 23, 1886.]

*Customs circular No. 371.*

CUSTOMS DEPARTMENT,  
Ottawa, May 7, 1886.

SIR: The Government of the United States having by notice terminated Articles XVIII to XXV, both inclusive, and Article XXX, known as the fishery articles of the Washington treaty, attention is called to the following provision of the convention between the United States and Great Britain, signed at London on the 20th October, 1818:

"ARTICLE I. Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the act of the Parliament of Canada, cap. 61, of the acts of 1868, entitled "An act respecting fishing by foreign vessels":

"2. Any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as she may remain within such place or distance.

"3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit 400 dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the 1st section of this act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

"4. All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this act, may be seized and secured by any officers or persons mentioned in the 2d section of this act; and every person opposing any officer or person in the execution of his duty under this act, or aiding or abetting any other person in any opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanor, and, upon conviction, be liable to imprisonment for a term not exceeding two years."

Having reference to the above, you are requested to furnish any foreign vessels, boats, or fishermen found within three marine miles of the shore, within your district, with a printed copy of the warning inclosed herewith.

If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such warning, you will please place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

J. JOHNSON,  
*Commissioner of Customs.*

To the COLLECTOR OF CUSTOMS at ———.

[Inclosure 3 in Mr. Hardinge's note of August 2, 1886.]

*The Earl of Rosebery to Sir L. West.*

FOREIGN OFFICE, *July 23, 1886.*

SIR: I have received your dispatch No. 55, Treaty, of the 15th ultimo, in which you inclose a copy of a note from Mr. Bayard, protesting against a warning alleged to have been given to United States fishing vessels by a Canadian customs official, with the view to prevent them from fishing within lines drawn from headland to headland from Cape Canso to St. Esprit, and from North Cape to East Point of Prince Edward Island.

In reply, I have to request you to acquaint Mr. Bayard that Her Majesty's Government have ascertained that no instructions to this effect have been issued by the Canadian Government, but that a further report is expected upon the subject.

It appears that the collector at Canso, in conversation with the master of a fishing vessel, expressed the opinion that the headland line ran from Cranberry Island to St. Esprit, but this was wholly unauthorized.

I am, &c.



No. 207.

*Mr. Bayard to Mr. Hardinge.*DEPARTMENT OF STATE,  
Washington, August 9, 1886.

SIR: I regret that it has become my duty to draw the attention of Her Majesty's Government to the unwarrantable and unfriendly treatment, reported to me this day by the United States consul-general at Halifax, experienced by the American fishing schooner *Rattler*, of Gloucester, Mass., on the 3d instant, upon the occasion of her being driven by stress of weather to find shelter in the harbor of Shelburne, Nova Scotia.

She was deeply laden and was off the harbor of Shelburne when she sought shelter in a storm and cast anchor just inside the harbor's entrance.

She was at once boarded by an officer of the Canadian cutter *Terror*, who placed two men on board.

When the storm ceased the *Rattler* weighed anchor to proceed on her way home, when the two men placed on board by the *Terror* discharged their pistols as a signal, and an officer from the *Terror* again boarded the *Rattler* and threatened to seize the vessel unless the captain reported at the custom-house.

The vessel was then detained until the captain reported at the custom-house, after which she was permitted to sail.

The hospitality which all civilized nations prescribe has thus been violated and the stipulations of a treaty grossly infringed.

A fishing vessel, denied all the usual commercial privileges in a port, has been compelled strictly to perform commercial obligations.

In the interests of amity, I ask that this misconduct may be properly rebuked by the Government of Her Majesty.

I have, &c.,

T. F. BAYARD.

No. 208.

*Mr. Hardinge to Mr. Bayard.*

WASHINGTON, August 10, 1886. [Received August 11.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday, drawing the attention of Her Majesty's Government to the alleged unwarrantable and unfriendly treatment experienced by the American fishing schooner *Rattler*, on the 3d instant, upon the occasion of her being driven by stress of weather to find shelter in the harbor of Shelburne, Nova Scotia.

I have, &c.,

CHARLES HARDINGE.

No. 209.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
*Washington, August 17, 1886.*

SIR: An affidavit has been filed in this Department by Reuben Cameron, master of the American schooner *Golden Hind*, of Gloucester, Mass., setting forth that, on or about the 23d of July ultimo, being out of water, he attempted to put into Port Daniel, Bay of Chaleurs, to obtain a fresh supply; that at the entrance of the bay, about four or five miles from land, the *Golden Hind* was boarded by an officer from the Canadian schooner *E. F. Conrad*, and by him ordered not to enter the Bay of Chaleurs; that said officer furnished Captain Cameron with a printed warning with this indorsement written thereon: "Don't enter the Bay of Chaleurs, M. S.;" and that in consequence of said act of the Canadian officer the *Golden Hind* was obliged to go across to Tignish, Prince Edward Island, to obtain water, whereby his fishing venture was interfered with, and loss and injury caused to the vessel and her owners.

I have the honor to protest against this act of officers of Her Britannic Majesty as not only distinctly unfriendly and contrary to the humane usages of civilized nations, but as in direct violation of so much of Article I of the convention of 1818 between the United States and Great Britain as secures forever to American fishermen upon the British North American coast admission to the bays or harbors thereof for the purpose of obtaining water. And for all loss or injury which may be shown to have accrued by reason of the act in question the Government of Her Britannic Majesty will be held justly liable.

I have further the honor to ask with all earnestness that the Government of Her Britannic Majesty will cause steps to be forthwith taken to prevent and rebuke acts so violative of treaty and of the common rites of hospitality.

I have, &c.,

T. F. BAYARD.

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No. 210.*Sir L. West to Mr. Bayard.*

WASHINGTON, *August 18, 1886.* [Received August 19.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday, protesting against the action of the officer of the Dominion schooner *E. F. Conrad*, in forbidding the master of the American schooner *Golden Hind* to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

I have, &c.,

L. S. SACKVILLE WEST.

No. 211.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
*Washington, August 18, 1886.*

SIR: Grave cause of complaint is alleged by the masters of several American fishing vessels, among which can be named the schooners Shiloh and Julia Ellen, against the hostile and outrageous misbehavior of Captain Quigley, of the Canadian cruiser Terror, who, upon the entrance of these vessels into the harbor of Liverpool, Nova Scotia, fired a gun across their bows to hasten their coming to, and placed a guard of two armed men on board each vessel, who remained on board until the vessels left the harbor.

In my note to your legation of the 9th instant I made earnest remonstrance against another unfriendly act of Captain Quigley, against the schooner Rattler, of Gloucester, Mass., which, being fully laden and on her homeward voyage, sought shelter from stress of weather in Shelburne Harbor, Nova Scotia, and was then compelled to report at the custom-house, and have a guard of armed men kept on board.

Such conduct cannot be defended on any just ground, and I draw your attention to it in order that Her Britannic Majesty's Government may reprimand Captain Quigley for his unwarranted and rude act.

It was simply impossible for this officer to suppose that any invasion of the fishing privileges of Canada was intended by these vessels under the circumstances.

The firing of a gun across their bows was a most unusual and wholly uncalled for exhibition of hostility, and equally so was the placing of armed men on board the peaceful and lawful craft of a friendly nation.

I have, &c.,

T. F. BAYARD.

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No. 212.*Sir L. West to Mr. Bayard.*

WASHINGTON, August 18, 1886. [Received August 19.]

SIR: With reference to your note of the 2d ultimo reporting to me the detention of the American schooner City Point, of Portland, Me., by the Canadian authorities at the port of Shelburne, Nova Scotia, and protesting against their action in so doing, I have the honor to inform you, in accordance with instructions which I have received from Her Majesty's Government, that the master of the schooner City Point committed a breach of the customs laws of the Dominion by not reporting to customs and landing part of the crew and luggage. The vessel in question was subsequently released on deposit of \$400.

I have, &c.,

L. S. SACKVILLE WEST.



No. 213.

*Sir L. West to Mr. Bayard.*

WASHINGTON, August 19, 1886. Received August 20.

SIR: I have the honor to acknowledge the receipt of your note of yesterday informing me of the causes of complaint alleged by the masters of several American fishing vessels against Captain Quigley, of the Canadian cruiser Terror.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 214.

*Sir L. West to Mr. Bayard.*BRITISH LEGATION,  
September 1, 1886. (Received September 2.)

SIR: With reference to your note of the 30th of July last, calling attention to the cases of the Thomas F. Bayard and the Mascot, I have the honor to inform you, in pursuance of instructions from Her Majesty's secretary of state for foreign affairs, that immediate inquiry will be made into the matter with the view that the right secured by the convention of 1818 to United States fishermen shall in no wise be prejudiced.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 215.

*The Queen to the President.*

[Telegram.]

BALMORAL, September 3, 1886, 2.30 p. m.

*The President of the United States:*

I desire to express my profound sympathy with the sufferers by the late earthquakes, and await with anxiety fuller intelligence, which I hope may show the effects to have been less disastrous than reported.

THE QUEEN.

No. 216.

*The President to the Queen.*

[Telegram.]

EXECUTIVE MANSION, Washington, September 4, 1886.

TO VICTORIA, Queen and Empress, Balmoral, Scotland:

Your Majesty's expression of sympathy for the sufferers by the earthquake is warmly appreciated and awakes grateful response in American hearts.

GROVER CLEVELAND,  
President.

No. 217.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
*Washington, September 10, 1886.*

SIR: It is my duty to ask you to bring to the attention of Her Britannic Majesty's Government the treatment lately experienced by an American fishing vessel, the *Mollie Adams*, of Gloucester, Mass., at the hands of the collector of customs at Port Mulgrave, in the Strait of Canso, Nova Scotia.

By the sworn statement of Solomon Jacobs, master of the schooner *Mollie Adams*, it appears that on the 31st ultimo, whilst on his homeward voyage laden with fish from the fishing banks, he was compelled to put into Port Mulgrave to obtain water, and duly made report and entry at the custom-house. The water-tank of the vessel having been burst in his voyage by heavy weather and thus rendered useless, he asked permission of the collector to purchase two or three barrels to hold a supply of water for his crew on their homeward voyage of about 500 miles.

This application was refused and his vessel threatened with seizure if barrels were so purchased. In consequence the vessel was compelled to put to sea with an insufficient supply of water, and in trying to make some other port wherein to obtain water a severe gale was encountered which swept away his deck-load of fish and destroyed two seine boats.

This inhospitable, indeed inhuman, conduct on the part of the customs officer in question should be severely reprimanded, and for the infraction of treaty rights and commercial privileges compensation equivalent to the injuries sustained will be claimed from Her Majesty's Government.

I have, &amp;c.,

T. F. BAYARD.

No. 218.

*Sir L. West to Mr. Bayard.*

WASHINGTON, September 11, 1886. (Received September 14.)

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date calling attention to the case of the *Mollie Adams*.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 219.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,

*Washington, September 17, 1886. (Received September 18.)*

SIR: With reference to your note of the 30th of July last calling attention to alleged infractions of the convention of 1818 by the authorities at Bonne Bay, Newfoundland, and at Port Amherst, Magdalen Islands, I have now received instructions from Her Majesty's secretary of state for foreign affairs to inform you of the steps which have been taken in the matter in consequence of the protest of the United States Government.

On the arrival of your note in London, Her Majesty's secretary of state for the colonies telegraphed to the officers administering the Governments of Canada and Newfoundland calling attention to the cases

and explaining that under the treaty of 1818 United States fishermen have the right to fish off the coasts of the Magdalen Islands and off certain coasts of Newfoundland, and stating that it was presumed that the customs officials in those places had not been instructed in the same way as on other parts of the coast.

On the 25th ultimo the Governments of Canada and Newfoundland were further instructed by dispatches from the colonial office to make full reports on the subject of the complaints in question, and it was recommended that special instructions should be issued to the authorities at those places where the inshore fishery has been granted by the convention of 1818 to the United States fishermen, calling their attention to the provisions of that convention, and warning them that no action contrary thereto may be taken in regard to United States fishing vessels.

I may add that information has been received that the warning notices referred to by you were discontinued in the beginning of August.

I have, &c.,

L. S. SACKVILLE WEST.

No. 220.

*Sir L. West to Mr. Bayard.*

WASHINGTON, September 18, 1886. (Received September 20.)

SIR: I have the honor to inform you that I am requested by the Earl of Iddesleigh to state to you that immediate inquiry will be made regarding the action of the officer of the Canadian schooner E. F. Conrad, in the case of the United States schooner Golden Hind, which formed the subject of your note of the 17th ultimo.

I have, &c.,

L. S. SACKVILLE WEST.

No. 221.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,

Washington, September 23, 1886.

SIR: I have the honor to bring to your attention an instance which has been brought to my knowledge of an alleged denial of one of the rights guaranteed by the convention of 1818, in the case of an American vessel.

Capt. Joseph E. Graham, of the fishing schooner A. R. Crittenden, of Gloucester, Mass., states under oath that on or about the 21st of July last, on a return trip from the open-sea fishing grounds to his home port, and while passing through the Strait of Canso, he stopped at Steep Creek for water. The customs officer at that place told him that if he took in water his vessel would be seized; whereupon he sailed without obtaining the needed supply, and was obliged to put his men on short allowance of water during the passage homeward.

I have the honor to ask that Her Britannic Majesty's Government cause investigation to be made of the reported action of the customs officer at Steep Creek, and if the facts be as stated, that he be promptly rebuked for his unlawful and inhumane conduct in denying to a vessel of a friendly nation a general privilege, which is not only held sacred under the maritime law of nations, but which is expressly confirmed to the fishermen of the United States throughout the Atlantic coasts of British North America by the first article of the convention of 1818.



It does not appear that the A. R. Crittenden suffered other damage by this alleged inhospitable treatment, but reserving that point the incident affords an illustration of the vexatious spirit in which the officers of the Dominion of Canada appear to seek to penalize and oppress those fishing vessels of the United States, lawfully engaged in fishing, which from any cause are brought within their reach.

I have, &c.,

T. F. BAYARD.

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No. 222.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,  
Washington, September 25, 1886. (Received September 27.)

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant requesting that investigation should be made of the reported action of the customs officer at Steep Creek, in the Straits of Canso, in threatening the United States fishing schooner Crittenden with seizure if she took in water, and to inform you that I have advised Her Majesty's Government accordingly.

I have, &c.,

L. S. SACKVILLE WEST.

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No. 223.

*Sir L. West to Mr. Bayard.*

WASHINGTON, October 12, 1886. (Received October 13.)

SIR: With reference to your note of the 14th June relative to certain warnings alleged to have been given to United States fishing vessels by the subcollector of customs at Canso, I have the honor to inclose to you herewith by instruction, from the Earl of Iddesleigh an extract from an approved report of the Canadian privy council dealing with this question.

I have, &c.,

L. S. SACKVILLE WEST.

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[Inclosure in note of October 12, 1886.]

*Extract from a certified copy of a report of a committee of the honorable the privy council approved by his excellency the administrator of the Government in council on the 16th August, 1886.*

The committee of the privy council have had under consideration a dispatch, dated 15 July, 1886, from the secretary of state for the colonies, in which he asks for a report from the Canadian Government on the subject of an inclosed note from Mr. Secretary Bayard to the British minister at Washington relating to certain warnings alleged to have been given to United States fishing vessels by the subcollector of customs at Canso. Mr. Bayard states:

First. That the masters of the four American fishing vessels of Gloucester, Mass., Martha C. Bradley, Rattler, Eliza Boynton, and Pioneer, have severally reported to the consul-general at Halifax that the subcollector of customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso head to a point three miles outside St. Esprit on the Cape Breton coast.

Second. That the same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape, in Prince Edward Island, to a point three miles outside East Point on the same island.

Third. That the same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred, observes that the instructions issued to collectors of customs authorized them in certain cases to furnish United States fishing vessels with a copy of the circular hereto attached, and which constitutes the only official "warning" collectors of cus-

toms are empowered to give. It was to be presumed that the subcollector of customs at Canso, as all other collectors, would carefully follow out the instructions as received, and that therefore no case such as that alleged by Mr. Secretary Bayard would be likely to arise.

The minister states, however, so soon as the dispatch above referred to was received he sent to the subcollector at Canso a copy of the allegations, and requested an immediate reply thereto.

The subcollector, in answer, emphatically denies that he has ordered any American vessel out of any harbor in his district or elsewhere, or that he did anything in the way of warning, except to deliver copies of the official circular above alluded to, and states that he boarded no United States vessel other than the *Annie Jordan* and the *Hereward*, and that neither the *Martha C. Bradley*, *Rattler*, or *Pioneer*, of Gloucester, have, during this season, reported at his port of entry. He, with equal clearness, denies that he has warned any United States fishing vessels to keep outside the line drawn from Cape North to East Point, alluded to by Mr. Secretary Bayard, or that they would not be permitted to enter Bay des Chaleurs.

The minister has every reason to believe the statements made by the subcollector at Canso, and, taking into consideration all the circumstances of the case, is of the opinion that the information which has reached the Secretary of State does not rest upon a trustworthy basis.

With reference to the concluding portion of Mr. Bayard's note, the minister observes that the occasion of the present dispatch, which has to deal mainly with questions of fact, does not render it necessary for him to enter upon any lengthened discussion of the question of headland limits.

No. 224.

*Sir L. West to Mr. Bayard.*

WASHINGTON, October 12, 1886. [Received October 13.]

SIR: With reference to your notes of the 10th of July last protesting against the action of the Canadian authorities with regard to the United States vessel *Novelty*, and the action of the Canadian cruiser *Middleton*, in preventing United States boats from visiting St. Andrews, New Brunswick, for the purpose of there purchasing herring for canning, I have the honor to inclose to you herewith by instruction from the Earl of Iddesleigh a copy of a certified report of the Canadian privy council dealing with both questions.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in note of October 12, 1886.]

*Certified copy of a report of a committee of the honorable, the privy council for Canada, approved by his excellency the administrator of the Government on the 20th August, 1886.*

The committee of the privy council have had under consideration the dispatch dated 29th July last, from Her Majesty's secretary of state for the colonies, inclosing two notes from Mr. Secretary Bayard to the British minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

The committee respectfully submit the annexed report from the minister of marine and fisheries, to whom the said dispatch and its inclosures were submitted, and they advise that your excellency be moved to transmit a copy thereof, if approved, to Her Majesty's principal secretary of state for the colonies.

JOHN J. MCGEE,  
*Clerk, Privy Council for Canada.*

DEPARTMENT OF FISHERIES,  
*Ottawa, August 14, 1886.*

The undersigned has the honor to submit the following in answer to a dispatch from Lord Granville to the governor-general under date 29th July last inclosing two notes from Mr. Secretary Bayard to the British minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

In his first communication, dated July 10, Mr. Bayard says:

"I have the honor to inform you that I am in receipt of a report from the consul-general of the United States at Halifax, accompanied by sworn testimony stating that the *Novelty*, a duly-registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or trans-ship fish in bond to the United States, at Pictou, Nova Scotia.

"It appears that having reached that port on the 1st instant, and finding the customs office closed on account of a holiday, the master of the *Novelty* telegraphed to the minister of marine and fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above. That he received in reply a telegram reciting, with certain inaccurate and extended application, the language of Article I of the treaty of 1818, the limitations upon the significance of which are impending discussion between the Government of the United States and that of Her Britannic Majesty. That on entering and clearing the *Novelty* on the following day at the custom-house, the collector stated that his instructions were contained in the telegram the master had received, and that the privilege of coaling being denied, the *Novelty* was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

"Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty would be held liable."

With reference to this the undersigned begs to observe that Mr. Bayard's statement appears to need modification in several important particulars.

In the first place, the *Novelty* was not a vessel regularly trading between certain ports in the United States and Canada, but was a fishing vessel whose purpose was to carry on the mackerel-seining business in the waters of the Gulf of St. Lawrence; around the coasts of Prince Edward Island and Nova Scotia; that she had on board a full equipment of seines and fishing apparatus and men; that she was a steam vessel and needed coal, not for the purposes of cooking or warming, but to produce motive power for the vessel, and that she wished to pursue her business of fishing in the above-named waters and to send her fares home over Canadian territory, to the end that she might the more uninterruptedly and profitably carry on her business of fishing. That she was a fishing vessel and not a merchant vessel was proved not only by the facts above mentioned, but also from a telegram over the signature of H. B. Joyce, the captain of the vessel, a copy of which is appended. In his telegram Captain Joyce indicates the character of his vessel by using the words "American fishing steamer," and he signs himself "H. B. Joyce, master fishing steamer *Novelty*."

There seems no doubt, therefore, that the *Novelty* was in character and in purpose a fishing vessel, and as such comes under the provisions of the treaty of 1818, which allows United States fishing vessels to enter Canadian ports "for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever."

The object of the captain was to obtain supplies for the prosecution of his fishing and to trans-ship his cargoes of fish at a Canadian port, both of which are contrary to the letter and spirit of the convention of 1818.

To Mr. Bayard's statement that, in reply to Captain Joyce's inquiry of the minister of marine and fisheries, "he received in reply a telegram reciting, with certain inaccurate and extended application, the language of Article I of the treaty of 1818," the undersigned considers it a sufficient answer to adduce the telegrams themselves.

### 1.—*Inquiry by the captain of the Novelty.*

"Pictou, N. S., July 1, 1886.

"Hon. GEORGE E. FOSTER,

"Minister of Marine and Fisheries, Ottawa:

"Will the American fishing steamer now at Pictou be permitted to purchase coal or ice or to trans-ship fresh fish in bond to United States markets?"

"Please answer.

"H. B. JOYCE,

"Master of Fishing Steamer *Novelty*."



2.—*Reply of the Minister of Marine and Fisheries thereto.*

"OTTAWA, July 1, 1886.

"TO H. B. JOYCE,

*"Master American Fishing Steamer Novelty, Pictou, N. S. :*

"By terms of treaty, 1818, United States fishing vessels are permitted to enter Canadian ports for shelter, repairs, wood, and water, and for no other purpose whatever. That treaty is now in force.

"GEORGE E. FOSTER,

*"Minister of Marine and Fisheries."*

The undersigned fails to observe wherein any "inaccurate or extended application" of the language of the treaty can be found in the above answer, inasmuch as it consists of a *de facto* citation from the treaty itself, with the added statement, for the information of the captain, that said treaty was at that time in force.

As to the "unwarranted interpretation and application of the treaty," of which Mr. Bayard speaks, the undersigned has already discussed that phase of the question in his memorandum of June 14, which was adopted by council and has been forwarded to Her Majesty's Government.

Mr. Bayard's second note is as follows:

"On the 2nd of June last I had the honor to inform you that dispatches from Eastport, in Maine, had been received reporting threats by the customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade.

"To this note I have not had the honor of a reply.

"To-day Mr. C. A. Boutelle, M. C., from Maine, informs me that American boats visiting St. Andrews, N. B., for the purpose of there purchasing herring from the Canadian weirs for canning had been driven away by the Dominion cruiser Middleton.

"Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of the citizens of the United States may not be thus invaded and subjected to unfriendly discrimination."

With reference to the above, the undersigned observes that so far as his information goes no collector of customs or captains of cruisers have threatened to "seize American boats coming into Canadian waters to purchase herring from Canadian weirs for the purpose of canning them as sardines."

Collectors of customs have, however, in pursuance of their duties under the customs law of Canada, compelled American vessels coming to purchase herring to enter and clear in conformity to customs law.

With reference to the action of the Dominion cruiser Middleton, the undersigned cannot do better than quote from the official report of the captain of that vessel as to the facts of the case referred to.

In his report of date 9th July, 1886, Captain McLean, of the General Middleton, says:

"At 9 a. m. made sail and drifted with the tide towards the bay. Seeing a large number of boats of various sizes hovering around the fishing weirs, I ordered the boat in waiting and sent Officer Kent in charge, giving him instructions to row down among the boats and see if there were any Americans purchasing fish. On the return of the boat Chief Officer Kent reported the boats mentioned were Americans, there for the purpose of getting herring. I immediately directed the chief officer to return and order the American boats to at once report themselves to the collector of the port and get permits to load fish or leave without further delay. One of the boatmen complied with the request, and obtained a permit to load fish for Eastport. The others were very much disturbed on receiving the above instructions, and sailed away toward the American side of the river and commenced blowing their fog-horns, showing their contempt. Other boats, at a greater distance, seeing our boat approaching, did not wait her arrival, but up sail and left for the American shore."

The above extract from the report of the chief officer of the General Middleton, goes to show that it was not his object to prevent American boats from trading in sardines, but rather to prevent them from trading without having first conformed to the customs law of Canada.

The whole respectfully submitted.

GEORGE E. FOSTER,

*Minister of Marine and Fisheries.*

No. 225.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
*Washington, October 19, 1886.*

**SIR:** The *Everett Steele*, a fishing vessel of Gloucester, Mass., in the United States, of which Charles E. Forbes, an American citizen, was master, was about to enter, on the 10th of September, 1886, the harbor of Shelburne, Nova Scotia, to procure water and for shelter during repairs. She was hailed, when entering the harbor, by the Canadian cutter *Terror*, by whose captain, Quigley, her papers were taken and retained. Captain Forbes, on arriving off the town, anchored and went with Captain Quigley to the custom-house, who asked him whether he reported whenever he had come in. Captain Forbes answered that he had reported always, with the exception of a visit on the 25th of March, when he was driven into the lower harbor for shelter by a storm and where he remained only eight hours. The collector did not consider that this made the vessel liable, but Captain Quigley refused to discharge her; said he would keep her until he heard from Ottawa, put her in charge of policemen, and detained her until the next day, when at noon she was discharged by the collector; but a calm having come on she could not get to sea, and by the delay her bait was spoiled and the expected profits of her trip lost.

It is scarcely necessary for me to remind you, in presenting this case to the consideration of your government, that when the northeastern coast of America was wrested from France in a large measure by the valor and enterprise of New England fishermen, they enjoyed, in common with other British subjects, the control of the fisheries with which that coast was enriched, and that by the treaty of peace of 1783, which, as was said by an eminent English judge when treating an analogous question, was a treaty of "separation," this right was expressly affirmed.

It is true that by the treaty of 1818, the United States renounced a portion of its rights in these fisheries, retaining, however, the old prerogatives of visiting the bays and harbors of the British northeastern possessions for the purpose of obtaining wood, water, and shelter, and for objects incidental to those other rights of territoriality so retained and confirmed. What is the nature of these incidental prerogatives, it is not, in considering this case, necessary to discuss. It is enough to say that Captain Forbes entered the harbor of Shelburne to obtain shelter and water, and that he had as much right to be there under the treaty of 1818, confirming in this respect the ancient privileges of American fishermen on those coasts, as he would have had on the high seas, carrying on, under shelter of the flag of the United States, legitimate commerce. The Government which you so honorably represent has, with its usual candor and magnanimity, conceded that when a merchant vessel of the United States is stopped in time of peace by a British cruiser on the groundless suspicion of being a slave trader, damages are to be paid to this Government not merely to redress the injury suffered, but as an apology for the insult offered to the flag of the United States. But the case now presented to you is a much stronger one than that of a seizure on the high seas of a ship unjustly suspected of being a slaver. When a vessel is seized on the high seas on such a suspicion, its seizure is not on waters where its rights, based on prior and con-

tinuous ownership, are guaranteed by the sovereign making the seizure. If in such case the property of the owners is injured, it is, however wrongful the act, a case of rare occurrence, on seas comparatively unfrequented, with consequences not very far reaching; and if a blow is struck at a system of which such vessel is unjustly supposed to be a part, such system is one which the civilized world execrates. But seizures of the character of that which I now present to you have no such features. They are made in waters not only conquered and owned by American fishermen, but for the very purpose for which they were being used by Captain Forbes, guaranteed to them by two successive treaties between the United States and Great Britain.

These fishermen also, I may be permitted to remind you, were engaged in no nefarious trade. They pursue one of the most useful and meritorious of industries. They gather from the seas, without detriment to others, a food which is nutritious and cheap, for the use of an immense population. They belong to a stock of men which contributed before the Revolution most essentially to British victories on the North-eastern Atlantic, and it may not be out of place to say they have shown since that Revolution, when serving in the Navy of the United States, that they have lost none of their ancient valor, hardihood, and devotion to their flag.

The indemnity which the United States has claimed, and which Great Britain has conceded, for the visitation and search of isolated merchantmen seized on remote African seas on unfounded suspicion of being slavers, it cannot do otherwise now than claim, with a gravity which the importance of the issue demands, for its fishermen seized on waters in which they have as much right to traverse for shelter as have the vessels by which they are molested. This shelter, it is important to observe, they will as a class be debarred from if annoyances such as I now submit to you are permitted to be inflicted on them by minor officials of the British Provinces.

Fishermen, as you are aware, have been considered, from the usefulness of their occupation, from their simplicity, from the perils to which they are exposed, and from the small quantity of provisions and protective implements they are able to carry with them, the wards of civilized nations; and it is one of the peculiar glories of Great Britain that she has taken the position—a position now generally accepted—that even in time of war they are not to be the subjects of capture by hostile cruisers. Yet, in defiance of this immunity thus generously awarded by humanity and the laws of nations, the very shelter which they own in these seas, and which is ratified to them by two successive treaties, is to be denied to them, not, I am confident, by the act of the wise, humane, and magnanimous Government you represent, but by deputies permitted to pursue, not uninfluenced by local rivalry, these methods of annoyance in fishing waters which our fishermen have as much right to visit on lawful errands as those officials have themselves. For let it be remembered that by annoyances and expulsions such as these the door of shelter is shut to American fishermen as a class.

If a single refusal of that shelter, such as the present, is sustained, it is a refusal of shelter to all fishermen pursuing their tasks on those inhospitable coasts. Fishermen have not funds enough nor outfit enough, nor, I may add, recklessness enough to put into harbors where, perfect as is their title, they meet with such treatment as that suffered by Captain Forbes.

To sanction such treatment, therefore, is to sanction the refusal to the United States fishermen as a body of that shelter to which they are



entitled by ancient right, by the law of nations, and by solemn treaty. Nor is this all. That treaty is a part of a system of mutual concessions. As was stated by a most eminent English judge in the case of *Sutton v. Sutton* (1 Myl. & R., 675), which I have already noticed, it was the principle of the treaty of peace, and of the treaties which followed between Great Britain and the United States, that the "subjects of the two parts of the divided Empire should, notwithstanding the separation, be protected in the mutual enjoyment" of the rights those treaties affirmed. If, as I cannot permit myself to believe, Great Britain should refuse to citizens of the United States the enjoyment of the plainest and most undeniable of these rights, the consequences would be so serious that they cannot be contemplated by this Government but with the gravest concern.

I have, &c.,

T. F. BAYARD.

No. 226.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, October 20, 1886.

SIR: Permit me to ask you to draw the attention of your Government to the case set forth in the inclosed affidavit of Murdock Kemp, master of the American fishing vessel *Pearl Nelson*, of Provincetown, Mass., which has been subjected to treatment, by the customs officials at Arichat, Nova Scotia, inconsistent with the international law of ordinary amity and hospitality, and also plainly violative of treaty rights under the convention of 1818 between Great Britain and the United States.

The vessel in question was compelled by stress of weather to seek shelter in the harbor of Arichat, Nova Scotia, and arrived late at night, when the custom-house was closed.

Before the custom-house was opened the next day the captain went there, and after waiting over an hour the collector arrived, and the usual inward report was made and permission asked to land the clothing of a sailor lost overboard, whose family resided in that vicinity.

He was then informed that his vessel was seized for allowing his crew to go ashore the night before *before reporting at the custom-house*.

The cruel irony of this was apparent when the collector knew such report was impossible, and that the landing of the crew was usual and customary, and that no charge of smuggling had been suggested or was possible under the circumstances.

To compel the payment of a fine, or "a deposit" of \$200, which is practically the same in its results, was harsh and unwarranted, and was adding a price and a penalty to the privilege of *shelter* guaranteed to American fishermen by treaty.

This vessel was a fishing vessel, and, although seeking to exercise no commercial privileges, was compelled to pay commercial fees, such as are applicable to trading vessels, but at the same time was not allowed commercial privileges.

I beg you will lose no time in representing the wrong inflicted upon an unoffending citizen of the United States, and procure the adoption of such orders as will restore the money so compelled to be deposited.

I am, sir, &c.,

T. F. BAYARD.

[Inclosure in note of October 20, 1886.]

*Affidavit of Captain Kemp, of the schooner Pearl Nelson.*

UNITED STATES OF AMERICA,

*District of Massachusetts :*

I, Murdock Kemp, of Provincetown, in Massachusetts, a citizen of the United States, on my oath do say that I was master and part owner of the schooner Pearl Nelson, a vessel of the United States duly licensed ———, 1886, for the fisheries, and holding a permit to touch and trade during the existence of said license.

I further say that the crew of said vessel were shipped on wages at Provincetown and Boston for a fishing voyage to the Grand Banks and return to Provincetown for discharge. Said schooner, with license and permit as aforesaid, sailed May 29, 1886, from Provincetown, and on her passage home touched at Arichat, Cape Breton, driven in there by stress of weather. Sailed by the wind from Bank Quero, and blowing fresh, a heavy sea running, and foggy, made Point Michaux, 9 miles from Arichat. The vessel was deep; her dorys floated on deck in her lee waist, wind being about west. I concluded to make a harbor and wait for better weather and wind. I anchored the vessel in Arichat Harbor at 11 p. m., September 7, 1886. I had lost a man on the Grand Banks, named James Sampson, who belonged to Arichat, and I wanted to land his effects if the customs officers would allow me to. Some of my crew belonged in that neighborhood. William Babins, my cook, and nine others of the crew took boats off the deck and went ashore without asking my permission. I saw them, but had never known there was any objection. I had been in this and other British North American ports frequently and witnessed the landing from my own and other vessels' crews, but never before heard such landing was illegal or improper. These men took nothing from the vessel with them, nor carried away anything but the clothes they wore.

From the time I left Provincetown I had been into no port anywhere. Next morning after my arrival in Arichat, at 8½ o'clock, I went ashore to enter at the custom-house, and found it closed. I called at 9 o'clock and it was not open. I went again at 10 o'clock and found the collector opening the office door. I made the regular inward report to him and requested permission to land the clothes of James Sampson, who had been lost from my vessel on the Grand Banks. He told me he had sent a man for me. After I got there this man came in. The officer was holding my papers and told the man to go back and take charge of the vessel. I asked him why he held my papers; he replied he seized her because I had allowed my men to go ashore before reporting at the custom-house; that all he would tell me was he said he would telegraph to Ottawa and find out what to do with me; and he did telegraph immediately. About 5 o'clock p. m. the collector received an answer, and told me to deposit \$200 and the vessel would be released. The collector would not allow me to land this dead man's clothes until after I had paid the \$200 fine. I gave the clothes to the shop-keeper to give to Sampson's widow or friends. I came out of Arichat about 11 a. m. on the 8th of September, 1886, having bought there one bushel of potatoes with the collector's permission, and arrived at Provincetown September 14, 1886. I sailed from Arichat with all my crew on board, and had not at any time intended to leave any of my crew at that port. They were hired men, shipped to be discharged on return at Provincetown, and on our arrival there were all paid off and discharged.

Some of the crew that went ashore at Arichat returned aboard as early as 7 o'clock and all were aboard about the time the vessel was seized. I gave them no money there and had none myself. I further say I did not enter Arichat with any intention of violating any law of the Dominion of Canada, nor for any business, but solely because of the stress of weather that had driven me there. It was mere kindness only that prompted me to offer to land Sampson's clothes there where his friends could get them. There was no profit to the vessel, crew, or myself expected in so doing, or attempted to be gained in entering the port of Arichat other than shelter from the stress of weather we had been under from Quero Bank. If any revenue law of Canada was violated by my vessel or by myself, the same was done through ignorance and inadvertence and not with any intention to defraud the revenue or offend the laws.

MURDOCK KEMP.

Personally appeared before me Murdock Kemp, at Provincetown, State of Massachusetts, U. S. A., this 27th day of September, 1886, who subscribed and made oath to the foregoing.

[SEAL.]

JAMES GIFFORD.

Notary Public.

No. 227.

*Sir L. West to Mr. Bayard.*

WASHINGTON, October 21, 1886. [Received October 22.]

SIR: I have the honor to acknowledge the receipt of your notes of the 19th and 20th instant, requesting me to draw the attention of Her Majesty's Government to the proceedings of the Canadian authorities in the cases of the United States fishing vessels Everett Steele and Pearl Nelson, and to inform you that I have lost no time in communicating copies of those documents to the Earl of Iddesleigh.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 228.

*Mr. Bayard to Sir L. West.*DEPARTMENT OF STATE,  
Washington, October 27, 1886.

SIR: I inclose copies of two letters received at this Department from George Steele, president of the American Fishery Union at Gloucester, Mass.

The object of these letters is to obtain authentic information of the administration of Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island and its vicinity, a trade which, the writer avers, has been carried on almost exclusively in American vessels for many years.

By the statements of the letter of Mr. Steele dated October 25, it appears that although the vessels employed in this trade are duly registered in their home port as fishing vessels, yet that so far as the proposed trade is concerned, they are not manned nor equipped, nor in any way prepared for taking fish, but their use is confined to the carriage of fish as merchandise to ports in the United States, a commercial transaction *pur et simple*.

May I ask the favor of an early response to the inquiries propounded by Mr. Steele?

I have, &amp;c.,

T. F. BAYARD.

[Inclosures in note of October 27, 1886.]

1. Copy of letter from George Steele, October 18, 1886. For inclosure 1 see No. 274, p. 526.
2. Copy of letter from George Steele, October 25, 1886. For inclosure 2 see No. 276, p. 527.

No. 229.

*Sir L. West to Mr. Bayard.*

WASHINGTON, November 1, 1886. [Received November 2.]

SIR: With reference to your note of the 9th of August last, respecting the treatment of the United States fishing boat Rattler by the



Canadian authorities, I have the honor to inclose to you herewith, in obedience to the instructions of the Earl of Iddesleigh, copy of a dispatch from the administrator of the Government of Canada together with copy of the report of the collector of customs at Shelburne.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in note of November 1, 1886.]

HALIFAX, NOVA SCOTIA, *September 21, 1886.*

SIR: I have the honor to inclose herewith a certified copy of a minute of my privy council embodying a report of the minister of customs in relation to the alleged improper treatment of the United States fishing schooner *Rattler* in being required to report to the collector of customs at Shelburne, Nova Scotia, when seeking that harbor for shelter.

The reply of the collector to the inquiries addressed to him in respect to this matter is appended to the minister's report, and in it the facts of the case as set forth in my telegram of the 14th instant, are given.

I have communicated your dispatch No. 195 of the 1st inst. forwarding Mr. Bayard's protest concerning this case to my ministers and requested to be furnished with a report thereon, which I shall forward for your information as soon as it has been received.

I have, &c.,

A. G. RUSSELL,  
*General.*

[Inclosure 2 in note of November 1, 1886.]

CUSTOM-HOUSE, *Shelburne, September 6, 1886.*

SIR: I have to acknowledge receipt of your telegram of 4th instant, relative to schooner *Rattler*, and I wired an answer this morning, as requested on the morning of the 4th ultimo. Chief officer of Terror, accompanied by Capt. A. F. Cunningham, called at this office. Captain Cunningham reported his vessel inwards as follows, viz: Schooner *Rattler* of Gloucester, 93 tons register; 16 men from fishing bank, with 465 barrels mackerel came in for shelter. I was afterwards informed by the officers of cutter that they found the schooner the evening before at anchor off Sandy Point, 5 miles down the harbor, two men from cutter were put on board, and the master required to report at customs in the morning. I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night, by hoisting sails, weighing anchor, &c., but was stopped by officers from cutter.

I am, &c.,

W. W. ATTWOOD, *Collector.*

THE COMMISSIONER OF CUSTOMS, *Ottawa.*

No. 230.

*Sir L. West to Mr. Bayard.*

WASHINGTON, *November 9, 1886.* [Received November 10.]

SIR: With reference to your note of the 16th of July last protesting against the action of Captain Kent of the Canadian cruiser General Middleton in expelling Stephen R. Balkam from the harbor of St. Andrews, New Brunswick, I have the honor to communicate to you herewith, in accordance with the instructions of the Earl of Iddesleigh, and in reply to your above-mentioned note, copy of a certified report of the privy council for Canada upon the subject.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in note of November 9, 1886.]

*Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 21st September, 1886.*

The committee of the privy council have had under their consideration a dispatch dated 5th August, 1886, from the right honorable the secretary of state for the colonies, transmitting a copy of a letter from the foreign office with a copy of a note from Mr. Bayard, and protesting against the action of Captain Kent, of the Dominion cruiser General Middleton, in refusing Stephen A. Balkam permission to buy fish from Canadians.

The minister of marine and fisheries, to whom the dispatch and inclosures were referred, submits the following report from the first officer of the General Middleton:

“HALIFAX, August 25, 1886.

“I have the honor to state that when boarding several boats in St. Andrews Bay I asked Stephen R. Balkam if the boat he was in was American. He replied that he thought she was. I informed him that if she was American he could not take fish from the weirs on the English side without a permit from the collector of customs at St. Andrews or West Isles.

“He asked permission to take the fish from the weirs in Kelly’s Cove without a permit. I declined to accede to his request.

“Mr. Balkam went around the point in his boat, and, after accosting several others, I met him again, evidently trying to evade my instructions. I told him that he must not take the fish without permission from the customs. He left for the American shore and I returned to the Middleton.

“Mr. Stephen R. Balkam I have known for some years. He formerly belonged to St. Andrews, but is now living in Eastport. His business is to carry sardines from the English side to Eastport for canning purposes.”

The minister is of opinion, in view of the above, that in warning Mr. Balkam that if his boat belonged to the United States he could not take herring from the weirs without first having reported at the custom-house, Mr. Kent acted within the scope of the law and his instructions.

The committee respectfully advise that your excellency be moved to transmit a copy of this minute to the right honorable the secretary of state for the colonies, as requested in his dispatch of the 5th August last.

JOHN J. MCGEE,  
Clerk, Privy Council, Canada.

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No. 231.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
Washington, November 11, 1886.

SIR: I have the honor to inclose herewith copies of the statements with affidavits from Capt. Medeo Rose, master of the schooner Laura Sayward, of Gloucester, Mass., and of Capt. Joseph Tupper, master of the schooner Jeannie Seaverns, also of Gloucester, forwarded to me by the collector of the port of Gloucester, under date of 5th instant.

The first impressively describes the inhospitable and inhuman conduct of the collector of the port of Shelburne, Nova Scotia, in refusing to allow Captain Rose to buy sufficient food for himself and crew to take them home, besides unnecessarily retaining his papers, and thus preventing him, with a wholly inadequate supply of provisions, from proceeding on his voyage.

The second complaint is of Captain Quigley, commanding the Canadian cruiser Terror, in not only preventing Captain Tupper from land-

ing to visit his relatives in Liverpool, Nova Scotia, but even forbidding his relatives from coming on board his vessel to see him, and likewise placing a guard on board of her to insure that result.

While I need not comment further than I have already done in previous notes on the unjust and unwarrantable acts of the Dominion officials of late towards our fishermen, of which the instances now presented are but repetitions, I must notice the new phase of Captain Quigley's abuse of authority in actually making Captain Tupper a prisoner on board of his own vessel, and in preventing his relatives, whom he states he had not seen for many years, from meeting him.

Such conduct, apart from all its legal and international aspects, is wholly unworthy of any one intrusted with the execution of a public duty and inconsistent with the national reputation for humanity and courtesy of an officer in Her Majesty's service.

I have, &c.,

T. F. BAYARD.

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[Inclosure 1 in note of November 11, 1886.]

*Mr. Presson to Mr. Bayard.*

GLOUCESTER, MASS., *Collector's Office, November 5, 1886.*

SIR: I transmit herewith, by request, affidavits of Capt. Medeo Rose, of schooner Laura Sayward, and Capt. Joseph Tupper, of schooner Jeannie Seaverns, in relation to their treatment by Canadian officials.

I am, &c.,

D. S. PRESSON,  
*Collector.*

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[Inclosure 2 in note of November 11, 1886.]

*Affidavit of Captain Rose, of the schooner Laura Sayward.*

I, Medeo Rose, master of schooner Laura Sayward, of Gloucester, being duly sworn, do depose and say: That on Saturday, October 2d, being then on Western Bank on a fishing trip, and being short of provisions, we hove up our anchor and started for home. The wind was blowing almost a gale from the northwest, and being almost dead-ahead we made slow progress on our voyage home. On Tuesday, October 5th, we made Shelburne, Nova Scotia, and arrived in that harbor about 8 p. m. on that day, short of provisions, water, and oil to burn. On Wednesday I sailed for the inner harbor of Shelburne. Arriving at the town about 4 p. m., on going ashore I found the custom-house closed, and hunted up the collector and entered my vessel, and asked permission from him to buy 7 pounds sugar, 3 pounds coffee, one-half to 1 bushel potatoes, and 2 pounds of butter, or lard or pork, and oil enough to last us home, and was refused. I stated to him my situation, short of provisions, and a voyage of 250 miles before me and plead with him for this slight privilege, but it was of no avail. I then visited the American consul and asked his assistance and found him powerless to aid me in this matter. The collector of customs held my papers until the next morning, although I asked for them as soon as I found I could not buy any provisions, say about an hour and a half after I entered, but he refused to give them to me until the next morning. Immediately on receiving my papers on Thursday morning, I started for home, arriving on Sunday. I think the treatment I received harsh and cruel, driving myself and crew to sea with a scant supply of provisions, we having but little flour and water and liable to be buffeted about for days before reaching home.

MEDEO ROSE.

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MASSACHUSETTS, *Essex, ss:*

OCTOBER 13, 1886.

Personally appeared Medeo Rose, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS, N. P.



[Inclosure 3 in note of November 11, 1886.]

*Affidavit of Captain Tupper, of the schooner Jeannie Seaverns.*

I, Joseph Tupper, master of schooner Jeannie Seaverns, of Gloucester, Mass., being duly sworn, do depose and say: That on Thursday, October 28, while on my passage home from a fishing trip, the wind blowing a gale from southeast, and a heavy sea running, I was obliged to enter the harbor of Liverpool, Nova Scotia, for shelter. Immediately on coming to anchor was boarded by Captain Quigley, of Canadian cruiser Terror, who ordered me to go on shore at once and enter at the custom-house, to which I replied that such was my intention. He gave me permission to take two men in the boat with me, but they must remain in the boat and not step on shore. I asked Captain Quigley if I could, after entering, visit some of my relatives who resided in Liverpool, and whom I had not seen for many years. This privilege he denied me. After entering, having returned to my vessel, some of my relatives came off to see me. When Captain Quigley saw their boat alongside of my vessel he sent an officer and boat's crew, who ordered them away, and at sundown he placed an armed guard on board our vessel, who remained on board all night, and was taken off just before we sailed in the morning.

I complied with the Canadian laws, and had no intention or desire to violate them in any way; but to be made a prisoner on board my own vessel, and treated like a suspicious character, grates harshly upon the feelings of an American seaman, and I protest against such treatment, and respectfully ask from my own Government protection from such unjust, unfriendly, and arbitrary treatment.

JOSEPH TUPPER.

MASSACHUSETTS, *Essex*, 88 :

NOVEMBER 4, 1886.

Personally appeared Joseph Tupper, and made oath to the truth of the above statement.

Before me.

AARON PARSONS, *N. P.*

[SEAL.]

No. 232.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,

*Washington*, November 12, 1886. [Received November 12.]

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, together with certain statements in which complaint is made of the conduct of the collector of customs at Shelburne, Nova Scotia, and the conduct of Captain Quigley, of the Canadian cruiser Terror, in their dealings with certain American fishing vessels, and to inform you that I have forwarded the same to Her Majesty's Government.

I have, &amp;c.,

L. S. SACKVILLE WEST.

No. 233.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,

*Washington*, November 15, 1886. [Received November 16.]

SIR: With reference to your notes of the 19th and 20th ultimo, I have the honor to inform you that I am requested by the Earl of Iddesleigh to state to you that the Dominion Government have been asked

to furnish immediate reports upon the action of their authorities in the cases of the American fishing vessels Everett Steele and Pearl Nelson.

I have, &c.,

L. S. SACKVILLE WEST.

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No. 234.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
*Washington, December 1, 1886.*

SIR: As possessing additional and very disagreeable bearing upon the general subject of the harsh treatment of American fishing vessels during the late season by the local authorities of the maritime provinces of Her Majesty's Dominion of Canada, I have the honor to send you herewith a copy of a letter addressed to me, under date of the 12th ultimo, by Capt. Solomon Jacobs, master of the American fishing schooner Molly Adams, of Gloucester, Mass. You will share, I doubt not, the regret I feel at such churlish and inhospitable treatment of a vessel which had freely, and with great loss and inconvenience, rendered such essential service to the suffering and imperiled crew of a Nova Scotian vessel. But for his generous act Captain Jacobs would have had no occasion to put into Malpeque, or, subsequently, when short of provisions, into Port Medway. As his narrative shows, the local authorities at Malpeque treated him with coldness and rudeness, making no provision to receive the Nova Scotian crew he had saved from such imminent danger, even causing him to incur a pecuniary burden in completion of his humane rescue, and even treating the landing of the property so saved from the wreck of the Nova Scotian vessel, on her own shores, as not lawful for an American fishing vessel "within the three-mile limit."

The treatment of Captain Jacobs at Port Medway is a fitting sequel to that received by him at Malpeque. Having undergone fourteen days detention in the latter port, and having shared his purse and slender stock of provisions with the men he had rescued, he put to sea, when, his supplies falling short by reason of his charitable action, he asked leave to purchase at Port Medway "half a barrel of flour, or enough provisions to take his vessel and crew home." With full knowledge of the cause of Captain Jacobs's dearth of provisions, even this the collector at Port Medway absolutely refused, and threatened Captain Jacobs with the seizure of his vessel "if he bought anything whatever." The urgent need of supplies in which Captain Jacobs stood, is shown by the fact that although the run with favorable weather from Port Medway to his home port, Gloucester, Mass., only occupied three days, his crew were on half rations for two days, and without food for one day of that time. It is painful to conjecture what might have been their distress had the Molly Adams encountered storms or head winds.

I am confident that Her Majesty's Government, than which none has more generously fulfilled the obligations of the unwritten code of seafaring humanity, will hasten to rebuke the treatment of Captain Jacobs at the hands of the local authorities of Nova Scotia, by exhibiting gratitude for his act in saving seventeen of their own people from death, and tendering him compensation for the delays and expenses he has undergone through the breaking up of his legitimate fishing venture.

The closing part of Captain Jacobs's letter may serve to show the irresponsible and different treatment he was subjected to in the several ports he visited, where the only common feature seems to have been a surly hostility. At Port Hood, for instance, Captain Jacobs being sick, his brother landed and reported in his stead, and, after paying the regular fee, was told that his report was a nullity, and that the vessel would be liable to penalty for unauthorized landing of her crew unless her captain reported in person, which, although ill, he was compelled to do, and the fee was thereupon levied a second time. This is a small matter measured by the amount of the fee, but it is surely discreditable and has a tendency which cannot be too much deplored.

In my late correspondence I have treated of the necessary and logical results of permitting so irritating and unfriendly a course of action, and I will not therefore now enlarge on this subject.

I have, &c.,

T. F. BAYARD.

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[Inclosure in note of December 1, 1886.]

*Captain Jacobs to Mr. Bayard.*

GLOUCESTER, November 12, 1886.

THE HON. SECRETARY OF STATE.

SIR: I would most respectfully ask your attention to the following facts as showing the spirit and manner of the application of law on the part of the officials of the Dominion of Canada.

On or about the 26th of September, when off Malpeque, Prince Edward Island, I fell in with the British schooner *Neskilita*, of Lockeport, Nova Scotia, which had run on Malpeque bar in making the harbor. It was blowing very heavy; sea running high. The crew was taken off by my vessel about 12 o'clock at night. There were seventeen men in all. We took care of them, and fed them for three days. The *Neskilita* became a total wreck. We saved some of the material.

The cutter *Critic*, Captain McClennan, one of the Canadian cruisers, was lying in the harbor of Malpeque. The captain boarded my vessel, and I reported to him the facts of the wreck and the condition of the men. They had saved a portion of their clothing. He neither offered to care for the wrecked crew, to feed them, nor to give them or myself any assistance whatever. Having some of the wrecked material on board, I asked the captain of the cutter for permission to land it. He referred me to the local collector. I went to the collector, and he referred me back to the captain of the cutter. As the cutter had gone out, the captain of the *Neskilita* assumed the responsibility and took the things ashore. The captain of the cutter told me that I could put the saved material on board a Nova Scotia vessel if I went outside of the three-mile limit to do it. I endeavored to get some of the people on shore to take the wrecked crew, but no one would do it unless I would be responsible for their board. Finally, I gave the crew \$60, enough to pay their passage home on the cars, and also gave them provisions to last during their journey.

Malpeque is a barred harbor, and it is only in smooth water that it is safe to go out over the bar, and my vessel drawing fourteen feet of water, and there was only fourteen feet of water on the bar, it was impossible for me to go out. By being detained in port in disposing of this wrecked crew I lost over ten days of valuable time before I could get out to fish, and during that time the fleet took large quantities of mackerel. Having to feed so many on my vessel left me short of provisions, and in a short time afterwards I put into Port Medway, and stated the circumstances, and asked permission to buy half a barrel of flour or enough provisions, to take my vessel and crew home. This was absolutely refused, and the collector threatened me that if I bought anything whatever he would seize my vessel. I was obliged to leave without obtaining anything and came home in three days, on short rations, a distance of 300 miles. The wind and weather being favorable, we had a good passage, but yet we were without provisions for one day before we arrived home. I wish to state most emphatically that the officials differ in their construction of our rights. Fees are different in every port, and as there is no standard of right fixed by our own Government, the fishermen are at the mercy of a class of officials hostile to them and their business, and with but little knowledge of law or its application.



For instance, at Souris, Prince Edward Island, 15 cents is charged. For reporting at Port Mulgrave, Nova Scotia, 50 cents is charged. At Port Hood, I being sick, my brother went to the custom-house to report. The official charged him 25 cents, and told him that unless the captain reported in person the report was invalid; that men from the vessel would not be allowed ashore unless the captain reported.

In the afternoon of the same day I was able to go to the office, and was charged 25 cents for my report, making 50 cents. In the matter of anchorage fees, at Port Mulgrave, Nova Scotia, I paid \$1.50; at Malpeque, \$1; at Sydney, \$1.17. At some ports we have to pay anchorage fees every time we go in, as at Halifax; at others twice for the season.

Now, I would most respectfully state that the official service throughout is actuated apparently from a principle of annoyance wherever and whenever it can be so applied; that there is only harmony of action in this regard alone, and that local laws and regulations are enforced against us without regard to any rights we may have under treaty; that the effect of this enforcement is not to promote but to interfere and to limit by unjust pains, fees, and penalties the right of shelter, obtaining wood and water, and making of repairs guaranteed by treaty of 1818; that instead of the restriction contemplated the local laws make a technical obligation that is without their province or power, and enforce penalties that should never be admitted or allowed by our Government.

And I would pray that in the case recited, and many others that can be shown if required, we may be protected from local laws and their enforcement that abridge our rights and have never received the sanction of the two great contracting powers in the construction and agreement of the treaty of 1818.

I have, &c.,

SOLOMON JACOBS.

\$1.17.]

NORTH SYDNEY, C. B., October 13, 1886.

*Molly Adams, 117 tons.—Captain Jacobs to harbor commissioners.*

To amount of harbor dues..... \$1 17

Received payment.

M. J. PHUEEN.

No. 100.

\$1.00.]

*Dominion of Canada.—Harbor dues.*

MALPEQUE, P. E. I., 1886.

Received from Solomon Jacobs, master of the schooner *Molly Adams*, from ——— 118 tons register, the sum of \$1, being harbor dues at this port.

EDWARD LARKINS,  
Harbor Master.

No. —.

*Dominion of Canada.—Harbor dues.*

PORT MULGRAVE, N. S., August 30, 1886.

Received from Solomon Jacobs, master of the schooner *Mollie Adams*, from North Bay, 117 tons register, the sum of \$1.50, being harbor dues at this port.

[SEAL.]

DUNCAN C. GILLIES,  
Harbor Master.

No. 235.

*Sir L. West to Mr. Bayard.*

BRITISH LEGATION,

Washington, December 6, 1886. [Received December 7.]

SIR: With reference to your note of the 27th of October last, I have the honor to inclose herewith a certified copy of a report of a committee

of the privy council of Canada, together with copy of the customs laws, which documents contain the information required respecting the sale and exportation of fresh herring from Grand Mandan Island.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in note of December 6, 1886.]

*Certified copy of a report of a committee of the honorable the privy council of Canada, approved by his excellency the governor-general, in council, on the 24th day of November, 1886.*

The committee of the privy council having had their attention called by a telegram, dated 18th November instant, from Her Majesty's minister at Washington, to his former dispatch of the 28th October ultimo, inclosing a copy of a note from the honorable Mr. Bayard, and the inclosures, asking for authentic information respecting the Canadian laws regulating the sale and exportation of fresh herring from the Grand Manan Island.

The minister of marine and fisheries, to whom said dispatch was referred for early report, states that any foreign vessel "not manned nor equipped, nor in any way prepared for taking fish," has full liberty of commercial intercourse in Canadian ports upon the same conditions as are applicable to regularly registered foreign merchant vessels; nor is any restriction imposed upon any foreign vessel dealing in fish of any kind different from those imposed upon foreign merchant vessels dealing in other commercial commodities.

That the regulations under which foreign vessels may trade at Canadian ports are contained in the customs laws of Canada (a copy of which is herewith), and which render it necessary, among other things, that upon arrival at any Canadian port a vessel must at once enter inward at the custom-house, and upon the completion of her loading, clear outwards for her port of destination.

The committee recommend that your excellency be moved to transmit a copy of this minute, together with a copy of the customs laws, as containing authentic information respecting Canadian laws regulating the sale and exportation of fresh herring, to Her Majesty's minister at Washington, for the information of the honorable Mr. Bayard, Secretary of State for the United States.

JOHN J. MCGEE,  
Clerk, Privy Council.

[Inclosure 2 in note of December 6, 1886.]

FORTY-SEVEN VICTORIA, CHAP. 29.

AN ACT to amend the customs act, 1883. Assented to April 19, 1884.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. Section 188 of "the customs act, 1883," is repealed and the following section enacted in lieu thereof:

"188. All penalties and forfeitures incurred under this act or any other law relating to the customs or to trade or navigation, may, in addition to any other remedy provided by this act or by law, be prosecuted, sued for and recovered with full costs of suit, in the exchequer court of Canada, or in any superior court or court of vice-admiralty, having jurisdiction in that province in Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed \$200, the same may, in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, British Columbia, Manitoba, and Prince Edward Island, respectively, also be prosecuted, sued for, and recovered in any court having jurisdiction in the place where the cause of prosecution arises, or where the defendant is served with the process."

2. Section 153 of the said act is repealed and the following section enacted in lieu thereof:

"153. If any person, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out, or passes, or attempts to pass through the custom-house any false, forged, or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors, shall, in addition to any other

penalty or forfeiture to which he and they may be subject for such offense, be liable, on conviction, to a penalty of not less than \$50 and not more than \$200, or to imprisonment for a term not less than one month nor more than one year, or to both fine and imprisonment within the said limits; and such conviction may be had in a summary manner, before any two justices of the peace or before any judge or magistrate having the powers of two justices of the peace."

3. Section 86 of the said act is hereby repealed.

4. This act shall be construed as part of the act amended by it, but its provisions, so far as they differ from those for which they are substituted, shall apply not only to cases in which the offense has been committed, but also to those in which the prosecution for the penalty or forfeiture thereby incurred is commenced after the passing of this act, although the offense was committed before the passing thereof.

#### FORTY-SIX VICTORIA, CHAP. 12.

**AN ACT to amend and consolidate the acts respecting the customs. Assented to 25th May 1883.**

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. This act may be cited as "the customs act, 1883."

2. This act shall be construed as being passed in amendment and consolidation of the act passed in the fortieth year of Her Majesty's reign (A. D. 1877), entitled "An act to amend and consolidate the act respecting the customs," and of any act amending the same.

3. This act shall come into force upon, from, and after the day of the passing thereof, and upon, from, and after the said day the acts and part of acts mentioned in the schedule hereto, and all acts, enactments, or provisions of law inconsistent with this act, or making any provision for any matter provided for by this act, are hereby repealed, and this act is substituted for them; provided always, that all acts or enactments repealed by any of the said acts shall remain repealed, and that all orders in council and regulations made under the acts hereby repealed, or under any former act relating to customs, so far as the same have not been revoked, or are not inconsistent herewith, shall remain in force until revoked or altered by competent authority; and all things lawfully done, and all obligations incurred, bonds given, duties accrued, and rights acquired under the said acts, or any of them, shall remain valid and may be enforced, and all offenses committed, penalties, forfeitures, or liabilities incurred under them, or any of them, may be prosecuted, punished, and enforced, and all proceedings and things lawfully commenced under them, or any of them, may be continued and completed under the said acts, or under corresponding provisions of this act, which shall not be construed as new law, but as a consolidation and continuation of the said repealed acts, subject to the amendments and new provisions hereby made. Anything heretofore done, or any offense committed or liability incurred under any provisions of any of the said repealed acts, which is repeated without material alteration in this act, may be alleged or referred to as having been done, committed, or incurred under the repealed act in which such provision was made, or under this act; and every such provision shall be construed as having had and as having the same effect, and from the same time, as under such repealed act, and any reference in any former act or document to any such provision in any of the said repealed acts, may hereafter be construed as a reference to the corresponding provision of this act.

4. The following terms and expressions wherever used in this act, or in any other laws relating to the customs, shall, unless it be otherwise specially provided, or there be something in the context repugnant to or inconsistent with such construction, be construed and interpreted as follows: The word "port" means a place where vessels or vehicles may discharge or load cargo; the word "collector" means the collector of the customs at the port or place intended in the sentence, or any person lawfully deputed, appointed, or authorized to do the duty of collector thereat; the word "officer" means an officer of the customs; the word "vessel" means any ship, vessel, or boat of any kind whatever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context be manifestly such as to distinguish one kind or class of vessel from another, and the word "vessel" includes "vehicle"; the word "vehicle" means any cart, car, wagon, carriage, barrow, sleigh, or other conveyance of what kind soever, whether drawn or propelled by steam, by animals, by hand or other power, and includes the harness or tackle of the animals, and includes also the fittings, furnishings, and appurtenances of the vehicle; the word "master" means the person having or taking charge of any vessel or vehicle; the word "conductor" means the person in charge or having the chief direction of any railway train; the words "owner," "importer," or "exporter,"



mean the owners, importers, or exporters, if there be more than one in any case, and include persons lawfully acting on their behalf: the word "goods" means goods, wares, and merchandise, or movable effects of any kind, including carriages, horses, cattle, and other animals, except where these latter are manifestly not intended to be included by the said word; the word "warehouse" means any place, whether house, shed, yard, dock, pond, or other place in which goods imported may be lodged, kept, and secured without payment of duty; "customs warehouse" includes sufferance warehouse, bonding warehouse, and examining warehouse; the word "oath" includes declaration and affirmation. The use of the terms "seized and forfeited," "liable to forfeiture," or "subject to forfeiture," or other term which might of itself imply that some act subsequent to the commission of the offense is necessary to work the forfeiture, shall not be construed as rendering any such subsequent act necessary, but the forfeiture shall accrue at the time of and by the commission of the offense, in respect of which the penalty of forfeiture is imposed. All the terms and provisions of this act, or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best insure the protection of the revenue and the attainment of the purpose for which this act or such law was made, according to its true intent, meaning, and spirit.

5. The following provisions of this act shall apply to all duties of customs imposed by any act of the Parliament of the Dominion of Canada, whether now in force or passed in the present session or in any future session of the said Parliament.

6. On each and every non-enumerated article which bears a similitude, either in material, quality, or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned.

7. If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty.

8. On all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty.

9. If an article be enumerated in the tariff under two or more names or descriptions, and there be a difference of duty, the highest duty provided shall be charged and collected thereon.

10. Spirits and strong waters, from whatever substance distilled or prepared, having the flavor of any kind of spirits or strong waters, subject to a higher duty than whisky, shall be liable to the duty imposed on spirits or strong waters of which they have the flavor.

11. Inasmuch as disputes may arise as to whether any or what duty is payable on particular goods, therefore when there is no decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the governor in council may declare the duty payable on the kind of goods in question, or that such goods are exempt from duty; and any order in council containing such declaration and fixing such duty (if any) and published in the Canada Gazette, shall, until otherwise ordered by Parliament, have the same force and effect as if such duty had been fixed and declared by law; and a copy of the said Gazette containing a copy of any such order shall be evidence thereof.

12. All duties, penalties, or forfeitures imposed by any act relating to the customs shall be payable in money, being a legal tender, at such rate as that \$4.86 $\frac{2}{3}$  of such money shall be of equal value with the British sovereign or pound sterling; and all such duties shall be paid and received according to the weights and measures established by statute in that behalf:

(2) All invoices of goods shall be made out in the currency of the country whence the goods are imported, and shall contain a true statement of the value of such goods; and in computing the value for duty of such currency, the rate thereof shall be such as has been ordered and proclaimed from time to time by the governor in council, who is hereby empowered to make such order; and the rate ordered shall be based upon the actual value of the standard coins or currency of such country as compared with the standard dollar of Canada in so far as such comparative values are known; and in all cases wherein the value of a currency has not been proclaimed, or where there is no fixed standard value, or wherein from any cause the value of such currency has become depreciated, then there shall be attached to the invoice of the goods imported the certificate of some consul resident in such place or country, showing the extent of such depreciation, or the true value of the currency in which such invoice is made out, then and there, as compared with the standard dollar of Canada; provided, however, that in cases where the value of a depreciated currency is dependent upon the rate of exchange on London, it shall be optional with the importer, with the consent of collector of customs, to compute the value for duty at the rate of exchange

certified by the bank through which drawn, as current at the time and place when and whence the goods were exported to Canada; provided further, that when the currency value is so determined at the time of entry, either by a consul's certificate, or by the certificate of the bank as above provided, such rate or value shall be final and not open to any readjustment by reason of the subsequent production of any certificate not corresponding in rate or value with that adopted.

13. In all cases wherein the duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value, and to any fractional part of such specific quantity.

14. The duties imposed by any act relating to the customs shall be held to be duties within the meaning of the act of the Parliament of Canada, entitled "As act to provide for the better auditing of the public accounts," and of any act of the said Parliament amending the same, and shall, with all matters and things thereunto relating, be subject to the provision of the said act or acts, and to the regulations and orders of the governor in council, made or to be made under the authority thereof, in so far as the same are not inconsistent with this act; and all moneys arising from such duties, or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the receiver-general, and shall form part of the consolidated revenue fund of Canada.

15. The true amount of customs duties payable to Her Majesty with respect to any goods imported into Canada or exported therefrom, and the additional sum (if any) payable under section 102 of this act, shall, from and after the time when such duties should have been paid or accounted for, constitute a debt due and payable to Her Majesty, jointly and severally, from the owner of the goods at the time of the importation or exportation thereof, and from the importer or exporter thereof, as the case may be; and such debt may at any time be recovered with full costs of suit in the exchequer court of Canada, or in any provincial court having jurisdiction in cases of debt to the amount claimed.

16. No goods shall be unladen from any vessel arriving at any port or place in Canada from any place out of Canada, nor from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within 3 leagues of the coast until due entry has been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen (unless for the purpose of lightening the ship or vessel in crossing over a shoal or bar or sand-bank) except between sunrise and sunset, and on some day not being a Sunday or statutory holiday, and at some hour and place at which an officer of the customs is appointed to attend the unloading of goods, or at some place for which a surfrance has been granted by the collector or other proper officer for the unloading of such goods; and if, after the arrival of the vessel within 3 leagues of the coast, any alteration be made in the stowage of the cargo so as to facilitate the unlawful unloading of any part thereof, or if any part thereof be fraudulently staved, destroyed, or thrown overboard, or any package be opened, it shall be deemed a breaking of bulk, and all goods unladen contrary to this act shall be seized and forfeited; and if bulk be broken contrary to this act, the master shall forfeit \$200, and the vessel may be detained until the said fine is paid or satisfactory security is given for the payment thereof; and unless payment be made or security be given within thirty days such vessel may, at the expiration thereof, be sold to pay the said penalty.

17. The governor in council may, by regulation from time to time, appoint the ports and places of entry for the purposes of this act, and may in like manner increase or diminish the number, or alter the position or limits thereof.

18. All goods imported into Canada, whether by sea, land, coastwise, or by inland navigation, whether dutiable or not, must be brought in at a port of entry where a custom-house is lawfully established.

19. All goods or merchandise exported by sea, land, or by inland navigation must be reported at the nearest custom-house, or, if exported from any place where no custom-house is established, they must be reported within twenty-four hours of the time of such export at the nearest custom-house, according to such regulations as may be established by the governor in council from time to time.

20. If any goods are imported into Canada at any other place than at some port or place of entry at which a custom-house is then lawfully established, or being brought into such port or place of entry by land or inland navigation, are carried past such custom-house or removed from the place appointed for the examination of such goods by the collector or other officer of the customs at such port or place before the same have been examined by the proper officer and all duties thereon paid and a permit given accordingly, such goods shall be seized and forfeited; and each and every person concerned in such unlawful importation or removal shall be subject to a penalty equal to the value of such goods.

21. If any vessel with dutiable goods on board enters any place other than a port of entry (unless from stress of weather or other unavoidable cause), such goods (ex-

cept those of an innocent owner) shall be seized and forfeited, together with the vessel in which the same were imported, if such vessel is of less value than \$800.

22. If any vessel, worth more than \$800, with dutiable goods on board, enters any place other than a port of entry (unless from stress of weather or other unavoidable cause), such goods (except those of an innocent owner) shall be seized and forfeited, and the vessel may be seized and the master or person in charge thereof shall incur a penalty of \$800, and the vessel may be detained until such penalty be paid or security given for the payment thereof; and, unless payment be made or satisfactory security be given within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty.

23. If any goods are unlawfully imported by land they shall be seized and forfeited, together with the vehicle in or by which such goods are so imported or removed, and the horses or other cattle employed in drawing such vehicle, or in importing or removing such goods.

24. If any goods are unlawfully imported on any railway they shall, in like manner, be seized and forfeited, and the car in which such goods were so imported shall be seized and detached from the train and forfeited; and any conductor, baggage-master, or any officer or servant employed on any railway, and any officer or servant employed by any express company, who is privy to or aids or abets in such unlawful importation, shall, upon summary conviction thereof, be liable to a fine of not less than \$50 nor more than \$200, or to imprisonment for not less than three months nor more than twelve months, or to both fine and imprisonment within the said limits.

25. The master of every vessel coming from any port or place out of the Dominion of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the custom-house for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers (if any), the number of the crew, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo (if any) is intended to be exported in the same vessel, and what surplus stores remain on board—as far as any of such particulars can be known to him.

26. In the case of every vessel bound for any seaport in Canada, from any port out of Canada, the collector or proper officer of such Canadian port may cause such vessel to be boarded by an officer of customs, detailed by him for such service, at any place within 3 marine miles of the anchorage ground, and such officer may demand from the master or purser of such vessel a correct copy of the report inwards, intended by him to be presented at the custom-house on arrival. Such boarding officer may remain on board the vessel until she anchors, and the copy of the report so received by him shall be deposited by him at the custom house as the vessel's report inwards for comparison with that to be presented by the master in person.

27. The master or person in charge of any vessel, whether laden or in ballast, arriving by inland navigation in any port or place of entry in Canada, from any place beyond the limits of Canada, and having any goods therein (whether any duty be payable on such goods or not) shall go without delay, when such vessel is anchored or moored, directly to the custom-house for such port or place of entry, and make a report in writing (in such form as may be appointed for that purpose by competent authority), to the collector or other proper officer, of the arrival of such vessel, stating in such report the marks and numbers of every package and parcel of goods in such vessel, or in the charge and custody of such person, from what place the same are respectfully brought, and to what place and to whom consigned or belonging, as far as such particulars are known to him; and he shall then and there produce such goods to the collector or other proper officer, and shall declare that no goods have been unladen from such vessel or have been put out of his possession, between the time of his coming within the limits of Canada and of his making his report and affidavit, and shall further answer all such questions concerning such vessel or goods as are demanded of him by such collector or officer.

28. The master shall at the time of making his report, if required by the officer of customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report and declaring that all the statements made in the report are true; and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report.



29. If any goods are unladen from any vessel before such report be made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall forfeit the sum of \$400, and the vessel may be detained until the said fine be paid.

30. Any goods not reported, found on board of any vessel or landed, shall be seized and forfeited, unless it appears that there was no fraudulent intention, in which case the master shall be allowed to amend his report; but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk.

31. If the contents of any package intended for importation into another port, or for exportation, be unknown to the master, the officer may open and examine it, and cause it for that purpose to be landed if he sees fit; and if any prohibited goods be found therein, all the goods in such package shall be seized and forfeited.

32. In order to avoid injurious delay to steamers and other vessels under certain circumstances, the governor in council may make such regulations as may be considered advisable for the appointment of sufferance wharves and warehouses, at which goods arriving by vessels in transit to other ports, or confined to certain days of departure, may be landed and afterward stored before entry, such vessels being duly reported to the custom-house, and having obtained the collector's warrant for the purpose; provided such landing be effected between sunrise and sunset, on a day not being Sunday or a statutory holiday, and provided the goods, on being so landed, are immediately stored in some such approved sufferance warehouse, and such goods shall be thereafter dealt with by the customs as prescribed by law; but nothing in this section shall affect any contract, express or implied, between the master or owner of any such vessel and the owner, shipper, or consignee of any such goods as aforesaid, or the rights or liability of any party under such contract; and provided further, that the governor in council may make similar regulations for the appointment of sufferance warehouses, in which goods arriving by railway may be stored before entry, such goods having been duly reported to the collector or proper officer of customs.

33. The conductor of every railway train carrying freight arriving at any port in Canada from any foreign port shall come directly, and before bulk is broken, to the custom-house at such port, and report all merchandise on board his train, or in any particular car belonging to such train, stating the marks and numbers of every package and parcel of goods on board, and where the same was laden, and where and to whom consigned, and what part thereof, if any, is intended to pass *in transitu* through Canada to some port or place in the United States, or to be transhipped at some other port in Canada, to be exported to a port or place out of Canada; and if any goods are unladen before such report is made, except by written permission of the collector, or proper officer of customs, or if the conductor fails to make such report, or makes an untrue report, or does not truly answer any questions put to him respecting the same, he shall forfeit the sum of \$400.

34. The person in charge of any vehicle, arriving by land in any place in Canada, and containing goods, whether any duty be payable on such goods or not, and the person in charge of any vehicle so arriving, if the vehicle or its fittings, furnishings or appurtenances, or the animals drawing the same or their tackle, is or are liable to duty, and any person whosever so arriving in Canada from any port or place out of Canada, on foot or otherwise, and having with him or in his charge or custody, any goods, whether such goods be dutiable or not, shall come to the nearest custom-house or to the station of the nearest officer of customs, before unloading or in any manner disposing of the same, and make a report in writing to the collector or proper officer of customs, stating the contents of each and every package and parcel of goods, and the quantities and values of the same; and shall also then answer all questions respecting such goods or packages, and the vehicle, fittings, furnishings and appurtenances, and animals, and the tackle appertaining thereto, as the said collector, or proper officer of customs, may require of him, and shall then and there make due entry of the same, in accordance with the law in that behalf.

35. Fresh fish, coin, or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel; provided they be duly reported and entered as soon as possible after being safely deposited on shore, and that the landing be in presence of an officer of the customs or receiver of wreck, or other person authorized to do the acts of such receiver under "the wreck and salvage act, 1873," or any act amending the same.

36. If a vessel having live stock or perishable articles on board arrives after business hours, the collector or any officer at the port may permit the master to unlade the same before report; but report shall in such case be made as soon as may be after the next opening of the customs office.

37. The governor in council may, by regulation, declare any trade or voyage on the seas, rivers, lakes, or waters, within or adjacent to Canada, whether to or from

any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this act, whether such seas, rivers, lakes, or waters are or are not, geographically or for the purposes of other acts or laws, inland waters; and all carrying by water, which is not a carrying by sea or coastwise, shall be deemed to be a carrying by inland navigation; and the governor in council may, from time to time, with regard to any such coasting trade, dispense with such of the requirements of this act as he deems it inexpedient to enforce in any case or class of cases, or make such further regulations as he may think expedient; and any goods carried coastwise, or laden, water-borne or unladen, contrary to such regulations or to any provision of this act, not dispensed with by such regulations, shall be seized and forfeited.

38. It shall not be lawful, unless otherwise authorized by the governor in council, to import any goods, wares, or merchandise from any port or place out of Canada in any vessel which has not been duly registered and has not a certificate of such registry on board.

39. If any goods are unladen from any vessel or vehicle, or put out of the custody of the master or person in charge of the same, before report is made as required by this act, or if such person or master fails to make such report, or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each such offense forfeit the sum of \$400; and if any such goods are not so reported and produced, or if the marks and numbers or other description of any package do not agree with the report made, such goods or package shall be seized and forfeited, and the vessel or vehicle and the animals drawing the same shall be detained until such amount be paid.

40. Every importer of any goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of any goods imported by inland navigation in a decked vessel of 100 tons burden or more, shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of any goods imported by inland navigation in any undecked vessel, or in any vessel less than 100 tons burden, or by land, shall, forthwith, after the importation of such goods, produce the same to the proper officer and make due entry thereof.

41. The person entering any goods inwards shall deliver to the collector or other proper officer, an invoice of such goods showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer,—and, if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place, within the port, where the goods are to be unladen,—and the description of the goods, and the marks and numbers and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

42. Unless the goods are to be warehoused in the manner by this act provided, the importer shall, at the same time, pay down, or cause to be so paid, all duties upon all goods entered inwards; and the collector or other proper officer shall, immediately thereupon, grant his warrant for the unloading of such goods, and grant a permit for the conveyance of the same goods further into Canada, if so required by the importer.

43. In default of such entry and landing, or production of the goods, or payment of duty, the officer of customs may convey the goods to a customs warehouse, or some secure place appointed by the collector for such purpose, there to be kept at the risk and charge of the owner; and if such goods be not duly entered within one month from the date of their being so conveyed to the custom warehouse, or other appointed place, and all charges of removal and warehouse rent duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied, first to the payment of duties and charges, and the overplus, if any, after discharging the vessel's lien, or other charges for transportation, shall be paid to the owner of the goods or to his lawful agent; provided, always, that in case the same cannot be sold for a sum sufficient to pay the duties and charges if offered for sale for home consumption, or the charges if offered for sale for exportation, such goods shall not be sold, but be destroyed.

44. Any goods unladen or landed before due entry thereof and warrant for landing, shall be seized and forfeited, and any person concerned in landing or receiving or concealing goods so landed, shall, for each offense, forfeit \$400.

45. If any goods are brought in any decked vessel, from any place out of Canada to any port or entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel, there to be landed, then the duty shall not be paid nor the entry completed at the first port, but at the port where the goods are to be landed, and to which they shall be conveyed accordingly, under such regu-



lations and with such security or precautions for compliance with the requirements of this act, as the governor in council may, from time to time, appoint.

46. The collector may require from the importer (or from his agent) of any goods charged with duty, or conditionally exempted from duty, or exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary, by oath or declaration, production of invoice or invoices, or bills of lading or otherwise, that such goods are properly described and rated for duty, or come properly within the meaning of such exemptions.

47. Any package of which the importer or his agent declares the contents to be unknown to him, may be opened and examined by the collector or other proper officer, in the presence of such importer or agent, and at the expense of the importer, who shall also bear the expense of repacking.

48. No entry, nor any warrant for the landing of any goods, or for the taking of any goods out of any warehouse (as hereinafter provided) shall be deemed valid, unless the particulars of the goods and packages in such entry or warrant correspond with the particulars of the goods and packages purporting to be the same in the report of the vessel, or other report (where any is required) by which the importation or entry thereof is authorized, nor unless the goods have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty or may be imported; and any goods taken or delivered out of any vessel, or out of any warehouse, or conveyed into Canada beyond the port or place of entry, by virtue of any entry or warrant not corresponding with the facts in all such respects, or not properly describing the goods, shall be deemed to be goods landed or taken without due entry thereof, and shall be seized and forfeited; and the collector or proper officer, after the entry of any goods, may, on suspicion of fraud, open and examine any package of such goods, in presence of two or more credible witnesses, and if, upon examination, the same are found to agree with the entries, they shall be repacked by such collector or proper officer, at the public cost, but otherwise they shall be seized and forfeited.

49. The quantity and value of any goods shall always be stated in the bill of entry thereof, although such goods are not subject to duty; and the invoice thereof shall be produced to the collector.

50. The surplus stores of vessels arriving in Canada shall be subject to the same duties and regulations as if imported as merchandise; but if the owner or master desires to warehouse the same for reshipment for the future use of the vessel, the collector may permit him so to do.

51. Vessels entering the Gut of Annapolis may be reported and entered, and the duties on goods therein imported paid either at the port of Digby or Annapolis.

52. Vessels entering the Great Bras d'Or and Little Bras d'Or shall be reported and entered at such place as the minister of customs may, from time to time, direct.

53. If any goods imported by water, or partly by water and partly by land, on which duties (ad valorem or specific or both) are payable, receive damage during the voyage of importation, between the actual departure of the vessel in which they are laden from the foreign port of exportation and the actual arrival of the goods at the port of destination in Canada, whereby such goods have become lessened in value, an abatement may be made in the manner hereinafter provided in the duty payable upon such goods, or in case duty has been paid thereon, a refund of a part of such duty may be made proportionate to the damage sustained; provided the claim therefor is made in due form and properly substantiated at the first landing from such vessel of the goods, and while they are in the custody of the Crown, or as soon after such first landing as they can be examined; provided also, that such examination be completed and certified by the collector of customs, customs appraiser, or other proper officer, whose duty it shall be to assess such damage within ten days of such landing.

54. If any goods imported by railway, or by any other land vehicle, on which duties (ad valorem, or specific, or both) are payable, receive damage during the course of transportation, after they are laden on such railway or other vehicle, and before they arrive at the Canadian port of destination, whereby they become lessened in value, an abatement may be made in the manner hereinafter provided in the duty payable upon such goods, provided the claim for such abatement is made in due form within ten days of the arrival of such goods at the Canadian port of destination, and substantiated in the same manner as provided in the next preceding section.

55. The collector of customs or appraiser or other proper officer whose duty it may be to examine and assess the amount of damage sustained on voyage or in course of importation, shall do so with all possible dispatch on being notified to that effect, and shall certify to the exact cause and extent of such damage with reference to the value of the goods in the principal markets of the country whence imported, and not according to the value in Canada.

56. The collector or appraiser shall not regard as evidence of the existence or amount of damage any price realized at an auction or forced sale thereof, nor shall he estimate nor shall any damage be allowed which may have originated from decay,



dampness, or other cause existing before the voyage commenced, and which may have rendered the goods unfit to withstand the ordinary risks of the voyage of importation, nor shall he estimate nor shall any allowance be made for or duty refunded for rust on iron or steel or any manufacture thereof, except on polished Russia iron and Canada plates, and on such only to the extent of 50 per cent., nor shall any allowance be made for stains or injury to any packages holding liquids, or the labels thereon, unless the contents of such packages have, at the same time, received actual specific damage by the admixture therewith of water or other foreign substance.

57. Upon the collector or appraiser ascertaining the percentage of damage, such percentage shall be deducted from the original value thereof, and duty shall then be levied and collected on such reduced value at an ad valorem rate which shall be equivalent to the rate of specific or specific and ad valorem duty which should have been collected upon such goods if they had not been so damaged.

58. When any vessel is entered at the custom-house at any port in Canada, on board of which there are any goods on which any duty has been levied or collected or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel, then, on proof being made on the oath of one or more credible witness or witnesses, before and to the satisfaction of the collector or proper officer of the customs at the place (who shall administer the oath) that such goods, or any part thereof (specifying the same), have been so lost or destroyed before the landing of the same, the duties on the whole or the part thereof so proved to be lost or destroyed shall, if the same have been paid or deposited, be returned to the owner or his agent.

59. If any vessel having received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents, and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when upon payment of storage and the reasonable charges of unloading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise, as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty. No person shall be entitled to the benefit of this section who shall have sold any of such goods, except such as it may have been necessary to sell to defray the expense of repairs and charges of the vessel, or as may have been authorized by the collector of customs; and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser.

60. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought, or coming into Canada, shall be subject to the same duties and regulation as goods of the like kind imported are subject to.

61. If any person has in his possession, in port or on land, any goods, derelict, flotsam, jetsam, or wreck, the same being dutiable, and does not give notice thereof to the nearest officer of customs without unnecessary delay, or does not on demand pay the duties thereon or deliver the same to the proper officer, he shall forfeit \$200, in addition to all other liabilities and penalties incurred by him, and the goods shall be seized and forfeited; and if any person removes or alters in quantity or quality any such goods, or unnecessarily opens or alters any package thereof or abets any such act before the goods are deposited in a warehouse under the custody of the customs officers, he shall, in addition to all other liabilities and penalties incurred by him, forfeit \$200.

62. If the duties on such goods are not paid within eighteen months from the time when the same were so delivered as aforesaid, the same may be sold in like manner and for the same purposes as goods imported may in such default be sold; if they are sold for more than enough to pay the duty and charges thereon, the surplus shall be paid over to the person entitled to receive it.

63. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes; and if such duties be not paid, such goods shall be forfeited, and may be seized and dealt with accordingly.

64. In all cases where duties are charged according to the weight, tale, gauge, or measure, such allowances shall be made for tare and draft upon the packages as may be appointed by regulation made by the governor in council; but when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinafter provided, the tare according to such invoice shall be deducted from the

gross weight of the goods instead of the allowances aforesaid; subject, however, to such further regulation as the governor in council may, from time to time, make.

65. The collector or any appraiser under this act, may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods, and such samples shall be disposed of as the minister of customs may direct.

66. The governor in council may appoint one or more appraisers, to be called Dominion customs appraisers, with jurisdiction at all ports and places in Canada; and may also appoint customs appraisers with jurisdiction at such ports and places in Canada as may be designated in the order in council in that behalf; and each such appraiser shall, before acting as such, take and subscribe the following oath of office before any collector or other person duly authorized to administer such oath:

"I, A. B., having been appointed an appraiser of goods, wares, and merchandise, and to act as such at the port of — (or as the case may be), do solemnly swear (or affirm) that I will faithfully perform the duties of the said office without partiality, fear, favor or affection, and that I will appraise the value of all goods submitted to my appraisement according to the true intent and meaning of the laws imposing duties of customs in this Dominion; and that I will use my best endeavors to prevent all fraud, subterfuge, or evasion of the said laws, and more especially to detect, expose, and frustrate all attempts to undervalue any goods, wares, or merchandise on which any duty is chargeable. So help me God."

A. B.,

Appraiser for

(as the case may be.)

"Sworn before me, this

18 . (as the case may be.)

day of

67. If no appraiser is appointed in any port of entry, the collector there shall act as appraiser, but without taking any special oath of office as such; and the minister of customs may, at any time, direct any appraiser to attend at any port or place for the purpose of valuing any goods, or of acting as appraiser there during any time, which such appraiser shall accordingly do without taking any new oath of office; and every appraiser shall be deemed an officer of the customs.

68. Where any duty ad valorem is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence and at the time when the same were exported directly to Canada.

69. Such market value shall be the fair market value of such goods in the usual and ordinary commercial acceptance of the term, at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is, by universal usage, considered and known to be a cash article, and so bona fide paid for in all transactions in relation to such article; and all invoices representing cash values, except in the special cases hereinbefore referred to, shall be subject to such additions as to the collector or appraiser of the port at which they are presented may appear just and reasonable, to bring up the amount to the true and fair market value, as required by this section.

70. Where a drawback of duties has been allowed by the government of the country where the goods were manufactured, the amount of such drawback shall be taken and considered to be a part of the fair market value of such goods; and in cases where the amount of such drawback has been deducted from the value of such goods upon the face of the invoice under which entry is to be made, or is not shown thereupon, the collector of customs, or proper officer, shall add the amount of such deduction or drawback and collect and cause to be paid the lawful duty thereon.

71. No deduction of any kind shall be allowed from the value of any goods imported into Canada because of any drawback paid or to be paid thereon, or because of any special arrangement between the seller and purchaser having reference to the exportation of such goods, or the exclusive right to territorial limits for the sale thereof, or because of any royalty payable upon patent rights but not payable when goods are purchased for exportation, or on account of any other consideration by which a special reduction in price might or could be obtained; provided that nothing herein shall be understood to apply to general fluctuations of market values.

72. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed value of a package or packages, where no charge for such package or packages has been made in such invoice; and where such charge is made it shall be the duty of the customs officer to see that the charge is fair and reasonable, and represents no more than the original cost thereof.

73. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, wiring, or cutting, or for any expense incurred or said to have been incurred in the preparation and



packing of goods for shipment, and all such charges and expenses shall, in all cases, be included as part of the value for duty.

74. The governor in council may provide that in the cases and on the conditions to be mentioned in the order, goods bona fide exported to Canada from any country, but passing *in transitu* through another country, shall be valued for duty as if they were imported directly from such first-mentioned country.

75. The standards or instruments by which the colors and grades of sugar are to be regulated, and the class to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished from time to time to the collectors of such ports of entry as may be necessary, by the minister of customs, in such manner as he may deem expedient; and the decision of the appraiser, or of the collector of a port where there is no appraiser, as to the class to which any sugar belongs, and the duties to which it is subject, shall be final and conclusive, unless upon appeal to the commissioner of customs, within thirty days, such decision be, with the approval of the minister, changed; the decision of the commissioner, with such approval, shall then be final.

76. All cane-juice, sirup of sugar or of sugar-cane, melado, concentrated melado or concentrated molasses, entered as molasses, or under any other name than cane-juice, sirup of sugar or of sugar-cane, melado, concentrated melado, or concentrated molasses, shall be seized and forfeited.

77. The value for duty on which any ad valorem duties on sugar, molasses, melado, sirup of sugar, or sugar-cane, sirup of molasses or of sorghum, concentrated melado or concentrated molasses, and sugar candy, shall, unless otherwise provided, be calculated and taken, shall include the value of the packages containing the same, and the shipping and other charges on such articles; and the value for duty shall be the value of the goods "free on board," at the place or port whence last exported direct to Canada; and the governor in council shall have power to declare what charges shall be included in such value so defined.

78. The governor in council shall have power to interpret, limit or extend the meaning of the conditions upon which it is provided in any act imposing duties of customs, that any article may be imported free of duty for special purposes, or for particular objects or interests; and to make regulations either for declaring or defining what cases shall come within the conditions of such act, and to what objects or interests of an analogous nature, the same shall apply and extend, and to direct the payment or non-payment of duty in any such case, or the remission thereof by way of drawback if such duty has been paid.

79. If the importer of any goods whereon a duty ad valorem is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath in such cases provided, then the collector or officer may cause such goods to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the collector or principal officer, or of such other officer of the customs as shall be appointed by the said collector or other proper officer, and to be delivered to such person, on his depositing in the hands of the collector or officer a sum of money sufficient in the judgment of the collector or officer to pay the duties thereon; and if the importer does not complete a perfect entry within the time appointed by the collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly.

80. Such sight entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that the invoice has not been and cannot be produced, and pays to the collector or proper officer aforesaid a sum of money sufficient in the judgment of such collector or officer to pay the duties on such goods, and such sum shall then be held to be the amount of the said duties.

81. Except only in cases where it is otherwise provided herein, or by regulation of the governor in council, no entry shall be deemed perfect unless a sufficient invoice of the goods to be entered, duly certified in writing thereon as correct by the person, firm, and corporation from whom the said goods were purchased, has been produced to the collector and duly attested as required by this act.

82. With the bill of entry of any goods there shall be produced and delivered to and left with the collector an invoice of the goods, as provided in the next preceding section, attested by the oath of the owner, and if the owner be not the person entering such goods then verified by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such entry and verify such invoice in the form or to the effect of the oath or oaths provided or to be provided by order in council in that behalf, which oath or oaths shall be written or printed, or partly written and partly printed on such invoice, or on the bill of entry (as the case may be), or shall be annexed thereto, and shall in either case distinctly refer to such invoice so that there can be no doubt as to its being the invoice to which



such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it is made; and the bill of entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath provided or to be provided by order in council in that behalf.

83. If there be more than one owner, importer, or consignee of any goods, any one of them cognizant of the facts may take the oath required by this act: and such oath shall be sufficient unless the goods have not been obtained by purchase in the ordinary way, and some owner resident out of Canada is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or one of them, if there be more than one) cognizant of the fact shall be requisite to the due attestation of the invoice.

84. The invoice of any goods produced and delivered to the collector with the bill of entry thereof, must, if required by the collector, be attested by the oath of the owner or one of the owners of such goods, and must be verified also by the oath of the importer, or consignee, or other person who may, under this act, lawfully make entry of such goods and verify such invoice, if the owner or one of the owners is not the person entering such goods, and must also, if required by the collector, be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners be the person entering the goods and verifying the invoice on oath.

85. If the owner, importer, or consignee of any goods be dead, or a bankrupt, or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator, or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer, or consignee might otherwise have taken or made.

86. No evidence of the value of any goods imported into Canada, or taken out of warehouse for consumption therein, at the place whence and the time when they are to be deemed to have been exported to Canada, contradictory to or at variance with the value stated in the invoice produced to the collector, with the additions (if any) made to such value by the bill of entry, shall be received in any court in Canada.

87. Any oath required under the provisions of this act connected with the entry of goods may be made in Canada before the collector, subcollector, surveyor, or chief clerk at the port where the goods are entered, or if the person making such oath is not resident there, then before the collector or proper officer of some other port; and when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom, or at any place in Her Majesty's possessions abroad, before the collector or before the mayor or other chief municipal officer of the place where the goods are shipped, or before a notary public, and at any other place before a British consul, or if there be no British consul, then before a foreign consul at such place.

88. The commissioner of customs or other person acting as deputy head of the department, and all officers holding under order in council the rank of chief clerk of the inside service in the said department, and all duly appointed inspectors of customs ports, shall, by virtue of their office, have full authority to administer all oaths and receive all affirmations and declarations required or authorized by this act, and the governor in council may, from time to time, by regulation, appoint or designate such other and additional persons, officers, or functionaries, as he sees fit, by name, or by their name of office, and in Canada or out of it, as those before whom such oaths may be validly taken, and may, by any order in council relax or dispense with the provisions of this act touching such oaths, in or with regard to goods imported by land or inland navigation, or to any other class of cases to be designated in such regulation.

89. No person other than the owner, consignee, or importer of the goods of which entry is to be made, shall be allowed to take any oath connected with the entry, unless there be attached to the bill of entry therein referred to, a declaration by the owner, consignee, or importer of the said goods or his attorney and agent duly appointed to transact business with the collector, pursuant to the provisions in that behalf of this act, to the same effect as the oath, distinctly referring to the invoice presented with such bill of entry, and signed by such owner, importer or consignee, or by his attorney and agent appointed as aforesaid, either in presence of the agent making the entry, who shall attest the signature, or of some justice of the peace or notary public, who shall attest the same.

90. Such declaration shall be kept by the collector; and if there be any willfully false statement in such declaration, the goods shall be liable to seizure and forfeiture in the same manner and with the same effect as if such false statement were contained in the oath, and the person making such false statement shall be subject to the same penalties, forfeitures, and criminal punishments as if he had himself taken the oath and had made such false statement therein; but such written declaration may

be dispensed with under the order of the governor in council, where it may be deemed advisable, in the interest of commerce, to dispense therewith.

91. The governor in council may prescribe the forms of oaths required under this act. Such forms may from time to time be repealed or amended, and the forms of oaths authorized by statute or by the governor in council at the time of the passing of this act shall continue to be the authorized forms until altered or dispensed with by the governor in council.

92. If any person makes, or sends, or brings into Canada, or causes or authorizes the making, sending, or bringing into Canada of any invoice or paper, used or intended to be used as an invoice for customs purposes, wherein any goods are entered or charged at a less price or value than that actually charged, or intended to be charged for them, no price or sum of money shall be recoverable by such person, his assigns or representatives, for the price or on account of the purchase of such goods, or any part of them, or on any bill of exchange, note, or other security (unless in the hands of an innocent holder for value without notice), made, given, or executed for the price of or on account of the purchase of such goods, or any part of such price.

93. The production or proof of the existence of any other invoice, account, document or paper made or sent by any person, or by his authority, wherein goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such invoice as in the next preceding section mentioned shall be *prima facie* evidence that such invoice was intended to be fraudulently used for customs purposes; but such intention, or the actual fraudulent use of such invoice, may be proved by any other legal evidence.

94. Any importer of goods into Canada, or any person on his behalf, who shall present or cause to be presented, with intent to make entry thereunder, any false or fraudulent invoice, such as described in the two next preceding sections shall be subject to a penalty equal in amount to the value of the goods represented in such invoice, and the goods shall also be seized and forfeited.

95. The collectors of customs at all ports in Canada shall retain and put on file, after duly stamping the same, all invoices of goods imported at such ports respectively, of which invoices they shall give certified copies or extracts, whenever called upon so to do by the importers, and such copies or extracts so duly certified by the collector or other proper officer, and bearing the stamp of the custom-house at which they are filed, shall be considered and received as authentic, and the collector shall be entitled to demand for each certificate a fee of 50 cents before delivering the same, but in no case shall an invoice be shown to or a copy thereof given to any person other than the said importer, or an officer of customs, except upon the order or subpoena of a proper court.

96. Any appraiser, or any collector acting as such, or the persons to be selected as hereinafter mentioned to examine and appraise any goods, if the importer, owner, consignee, or agent is dissatisfied with the first appraisement, may call before him or them and examine upon oath any owner, importer, consignee, or other person, touching any matter or thing which such appraiser or collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices, or other papers or account-books in his possession relating to the same.

97. If any person called, as provided in the next preceding section, neglects or refuses to attend, or declines to answer, or refuses to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers or account-books, as provided by the next preceding section, when required so to do, he shall thereby incur a penalty of \$50; and if such person is the owner, importer, or consignee of the goods in question, the appraisement which the appraiser or collector acting as such shall make thereof shall be final and conclusive.

98. If any person willfully swears falsely in any such examination, and he is the owner, importer, or consignee of the goods in question, they shall be seized and forfeited; and all depositions or testimony in writing taken under either of the two next preceding sections shall be filed in the office of the collector at the place where the same are made or taken, there to remain for future use or reference.

99. If the importer, owner, consignee, or agent, having complied with the requirements of this act, is dissatisfied with the appraisement made, as aforesaid, of any such goods, he may forthwith give notice, in writing, to the collector, of such dissatisfaction, on the receipt of which notice the collector shall select two discreet and experienced persons, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions; and all invoices, entries, and other papers connected with the appraisement, and all evidence taken by or before the appraiser or collector of customs acting as such, and by or before the said persons, shall be transmitted without delay to the commissioner of customs, who, after due examination of the same, shall decide and determine the proper



rate and amount of duty to be collected and paid, and his decision shall be final and conclusive, and the duty shall be levied and collected accordingly.

100. The said persons appointed to appraise shall each be entitled to the sum of \$5,000 to be paid by the party dissatisfied with the first appraisement, if the value ascertained by the second appraisement is equal to or greater than that ascertained by such first appraisement or if the value ascertained by such second appraisement exceeds by 10 per cent., or more, the value of the goods for duty, as it would appear by the invoice and bill of entry thereof; otherwise the same shall be paid by the collector out of any public moneys in his hands, and charged in his accounts.

101. Any person chosen to make an appraisement required under this act who, after due notice of such choice has been given to him in writing, declines or neglects to make such appraisement, shall, for so refusing or neglecting without good and sufficient cause, incur a penalty of \$40 and costs.

102. If in any case the true value for duty of any goods, as finally determined under this act, or as determined in any action or proceeding to recover unpaid duties, exceeds by 20 per cent. or more the value for duty, as it would appear by the bill of entry thereof, then in addition to the duty payable on such goods, when properly valued, there shall be levied and collected upon the same a sum equal to one-half of the duty so payable; and in case the owner or importer refuses or neglects to pay the said duty and additional sum, the goods may be seized and forfeited.

103. The collector may, when he deems it expedient for the protection of the revenue and the fair trader, subject always to any regulations to be made by the governor in council in that behalf, detain and cause to be properly secured, and may at any time within fifteen days declare his option to take, and may take, for the Crown, any whole package or packages, or separate and distinct parcel or parcels, or the whole of the goods mentioned in any bill of entry, and may pay, when thereunto requested, to the owner or person entering the same, and out of any public moneys in the hands of such collector, the sum at which such goods, packages, or parcels are respectively valued for duty in the bill of entry, and 10 per cent. thereon, and also the fair freight and charges thereon to the port of entry, and may take a receipt for such sum and addition when paid.

104. The goods taken as provided in the next preceding section, shall (whether payment be requested by the owner or person entering the same, or not) belong to the Crown from the time they are so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as shall be provided by any regulation in that behalf, or as the minister of customs shall direct; and the net proceeds of the sale of any such goods shall be applied first to the repayment to the consolidated revenue fund of the sum so paid to the owner or person entering such goods, and the remainder to or towards the payment of the lawful duty on the same.

105. If the net proceeds of any such sale exceeds the amount paid as aforesaid for the goods, and the amount of duty legally accruing thereon, then any part of the surplus, not exceeding 50 per cent. of such surplus, may under any regulation or order of the governor in council be paid to the collector, appraiser, or other officer concerned in the taking thereof, as a reward for his diligence.

106. The collector shall cause at least one package in every invoice or entry and at least one package in ten, if there be more than ten, in any invoice or entry, and so many more as he or any appraiser deems it expedient to examine for the protection of the revenue, to be sent to the examining warehouse, and there to be opened, examined, and appraised, the packages to be so opened being designated by the collector.

107. If any goods are found in any package which are not mentioned in the invoice or entry, such goods shall be seized and absolutely forfeited.

108. If any goods are found which do not correspond with the goods described in the invoice or entry, or if the description in the invoice or entry has been made for the purpose of avoiding payment of the duty or of any part of the duty on such goods, or if in any entry any goods have been undervalued for such purpose as aforesaid, such goods shall be seized and forfeited.

109. If the oath made with regard to any entry is willfully false in any particular—all the packages and goods included or pretended to be included, or which ought to have been included in such entry, shall be forfeited.

110. All the packages mentioned in any one entry, although some of such packages may have been delivered to the importer or any one on his behalf, shall be subject to the control of the customs authorities of the port at which they are entered, until such of the packages as have been sent for examination to the examining warehouse shall have been duly examined and approved; and a bond shall be given by the importer, conditioned that the packages so delivered shall not be opened or unpacked before the package or packages sent to the examining warehouse shall have been examined and passed as aforesaid.

111. Any package delivered without examination, or the goods, if lawfully unpacked, shall, if required by the collector of customs, be returned to the custom-house



within such time as may be mentioned in the bond, under the forfeiture of the penalty of such bond; provided, that the collector shall use due diligence in causing such examination to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked as soon as those sent to the warehouse have been examined and approved.

112. The bond mentioned in the two next preceding sections may be a general bond covering the entries to be made by the importer for a period of twelve months from its date, and the penal sum shall be equal to the value of the largest importation made by the importer in question at any one time during the twelve months next immediately preceding; or if such importer has made no importations by which, in the opinion of the collector such penal sum can be properly fixed, the collector shall fix the amount thereof at such sum as he deems equitable.

113. The burden of proof that the proper duties payable with respect to any goods have been paid, and that all the requirements of this act with regard to the entry of any goods have been complied with and fulfilled, shall, in all cases, lie upon the party whose duty it was to comply with and fulfill the same.

114. The governor in council may, by regulation, direct that after any goods have been entered at the custom-house, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such a manner or form as may be directed by such regulation for the security of the revenue, and by such officer as may be directed or appointed for that purpose.

115. When any person has occasion to remove from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid, the collector or principal officer of the customs at such port on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers, shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars, and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed.

116. The warehousing ports already established and such ports of entry as the governor in council may from time to time appoint shall be warehousing ports.

117. The importer of any goods into Canada may enter the same for exportation, on giving security by his own bond with one sufficient security, for the exportation of the same goods, or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this act with regard to the same at such ports or places as aforesaid, and in such warehouses, and subject to such rules and regulations as may be from time to time appointed by the governor in council in that behalf, the penalty of the said bond to be double the amount of the duty to which such goods are subject.

118. During the regular warehouse hours, and subject to such regulations as the collector or proper officer of customs at any warehousing port sees fit to adopt, the owner of any warehoused goods may sort, pack, repack, or make any lawful arrangements respecting the goods warehoused, in order to the preservation or legal disposal thereof, and may take therefrom moderate samples, without present payment of duty or entry.

119. The owner of any warehoused goods may remove the goods under the authority of the collector or proper officer from any warehousing port to any other warehousing port in Canada, or from one warehouse to another in the same port, under good and sufficient bonds to the satisfaction of such officer.

120. Upon entry of goods at any frontier port or custom-house, under the authority and with the sanction of the collector or proper officer of customs at such port or custom-house, and under bonds to his satisfaction, and subject to such regulations as may be made in that behalf by the governor in council, the importer may pass the goods on to any port in any other part of Canada.

121. No transfer of the property in goods warehoused shall be valid for the purposes of this act unless the transfer be in writing signed by the importer or his duly authorized agent, or be made by process of law, and unless such transfer be produced to the collector or other proper officer of the proper port and be recorded by him in a book to be kept for that purpose in the custom-house. No such transfer of less than a whole package shall be valid, and no more than three transfers of the same goods shall be allowed before entry thereof for duty or for exportation.

122. Upon any such transfer of goods in warehouse being legally effected, as before provided, the proper officer may admit new security to be given by the bond of the new owner of the goods, and may cancel the bond given by the original owner of such goods, or may exonerate him to the extent of the new security so given; and

the new owner of any such goods shall then be deemed to be the importer thereof for the purposes of this act.

123. All warehoused goods shall be finally cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and, in default thereof, the collector or proper officer may sell such goods for the payment, first, of the duties, and, secondly, of the warehouse rent and other charges; and the surplus, if any, shall be paid to the owner or his lawful agent; and the collector or proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the governor in council in that behalf.

124. The collector may, if he sees no reason to refuse such permission, permit an importer to abandon to the Crown any whole package or packages of warehoused goods, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall belong to the Crown, provided, that if such goods cannot be sold for a sum sufficient to pay the duties and charges, such goods shall not be sold but shall be destroyed.

125. The governor in council may, by regulation, dispense with or provide for the canceling of bonds for the payment of duties on goods actually deposited in a customs warehouse, on such terms and conditions and in such cases as he thinks proper.

126. It shall not be lawful for any person to make, or any officer of customs to accept, any bond, note, or other document for the purpose of avoiding or deferring the actual payment of duties legally accruing on goods imported into Canada, nor to arrange for deferring payment of such duties in any way, unless such goods are entered for warehouse and duly deposited therein according to the laws and regulations governing the warehousing of such goods.

127. Any collector or other officer of customs who shall allow the payment of duties of customs to be avoided or deferred for any cause or consideration whatever, except by regular entry for warehouse, shall be and become liable to forfeit a sum equal to the full value of such goods, and in addition thereto the amount of duty accruing thereon, which shall be recoverable from him or his sureties, or either of them, in the exchequer court or any court of competent jurisdiction in Canada; and any goods on which payment of duty may have been so avoided or deferred shall be liable to seizure and be dealt with as goods unlawfully imported into Canada.

128. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse, or, having been so deposited, are afterwards taken out of the warehouse, without lawful permit, or, having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or are afterwards relanded, sold, used, or brought into Canada, without the lawful permission of the proper officer of the customs, such goods shall be seized and forfeited.

129. All goods taken out of warehouse shall be subject to the duties to which they would be subject if then imported into Canada, and not to any other.

130. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond; and the importer of any wheat, maize, or other grain, may grind and pack the same in bond, providing such slaughtering, curing, grinding, and packing be done and conducted under such regulations and restrictions as the governor in council may, from time to time, make for that purpose; but the said regulations shall not extend to the substitution of other beef, pork, flour, or meal for the produce of such imported cattle or swine, wheat, maize, or other grain.

131. The importer or owner of any sugar, molasses, or other material from which refined sugar can be produced, may refine the same in bond, provided such refining be done and conducted under such regulations and restrictions as the governor in council may, from time to time, make for that purpose.

132. Duties shall be payable in all cases on the quantity and value of goods in the warehouse, as ascertained and stated on first entry, or as originally warehoused.

133. The unshipping, carrying, and landing of all goods, and the taking of the same to and from a customs warehouse or proper place after landing, shall be done in such manner, and at such places, as shall be appointed by the collector or proper officer of customs.

134. Unless otherwise provided by the governor in council, warehouse rent and expenses of safe-keeping in warehouse, and all expenses connected with the unshipping, carrying, and landing of goods and the taking of the same to and from a customs warehouse or proper place after landing shall be borne by the importer. If any such goods be removed from the place so appointed without leave of such collector or proper officer, they shall be seized and forfeited.

135. The governor in council may, from time to time, make regulations for the warehousing of goods, either for consumption, removal, exportation, or ship's stores, in any quantity not less than a whole package as originally warehoused, unless the said goods be in bulk, and then in quantities not less than one ton in weight, except

when a less weight may be the balance remaining of the original entry thereof for warehouse.

136. If after any goods have been duly entered, or landed to be warehoused, or entered and examined to be rewarehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part for home use or for exportation as from the warehouse, the goods so entered shall be considered as warehoused or rewarehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation.

137. Upon the entry outwards of any goods to be exported from the customs warehouse, either by sea or by land, or inland navigation, as the case may be, the person entering the same shall give security by bond in double the duties of importation on such goods, and with a sufficient surety, to be approved by the collector or proper officer, that the same shall, when the entry aforesaid is by sea, be actually exported, and when the entry aforesaid is by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the collector or proper officer, and that such proof or certificate that such goods have been so exported, landed, or delivered, or otherwise legally disposed of, as the case may be, as shall be required by any regulation of the governor in council, shall be produced to the collector or proper officer within a period to be appointed in such bond; and if any such goods are not so exported or are fraudulently relanded in or brought into Canada, in contravention of this act and of the said bond, they shall be seized and forfeited, together with any vessel, boat, or vehicle in which they are so relanded or imported.

138. If within the period appointed by the said bond, there be produced to the proper collector or officer of customs the written certificate of some principal officer of customs or colonial revenue at the place to which the goods were exported, or if such place be a foreign country, of any British or foreign consul or vice-consul, resident there, stating that the goods were actually landed and left at some place (naming it) out of Canada, as provided by the said bond, such bond shall be canceled; in case it be proved to the satisfaction of the proper collector or officer of customs that the said goods have been lost, such bond may be canceled.

139. Any person making any entry outwards of goods from warehouse for exportation not being the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped, shall, for each offense, forfeit \$200.

140. Warehoused goods may be delivered as ships' stores for any vessel of the burden of 50 tons or upwards, bound on a voyage to a port out of Canada, the probable duration of which voyage out and home will not be less than thirty days; also for any vessel bound for and engaged in the deep-sea fishing, proof being first made by affidavit of the master or owner, to the satisfaction of the proper officer, that the stores are necessary and intended for the purposes aforesaid; provided that the minister of customs may define and limit the kind, quantity, and class of goods which may be so delivered as ships' stores. Should such stores or any part thereof be relanded, sold, or disposed of in Canada without due entry and payment of duty, such stores shall be seized and forfeited and the vessel for which the same were delivered from warehouse shall be seized and forfeited.

141. The master of every vessel bound outwards from any port in Canada to any port or place out of Canada, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country, and tonnage, the port of registry, the name of the master, the country of the owners, and the number of the crew; and before any goods or ballast are taken on board such vessel the master shall show that all goods imported in her, except such as were reported for exportation in the same vessel, have been duly entered, except that the proper officer may issue a stiffening order that such goods or ballast as may be specified therein may be laden before the former cargo is discharged. And before such vessel departs the master shall bring and deliver to the collector or other proper officer a content in writing under his hand of the goods laden and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him.

142. The master of every vessel, whether in ballast or laden, shall, before departure, come before the collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer, and, if required, shall make his answers or any of them part of the declaration made under his hand, as aforesaid; and thereupon the collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage with merchandise or a certificate of her clearance in ballast, as the case may be; and if there be merchandise on board, and the vessel is bound to any port in Canada, such clearance



shall state whether any and which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the collector at the next port in Canada at which he arrives immediately on his arrival.

143. If any vessel departs from any port or place in Canada without a clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, or if, having received a clearance, such vessel adds to her cargo, or takes another vessel in tow, or performs any work without having mentioned in the report outwards the intention so to do, the master shall forfeit the sum of \$400; and the vessel shall be detained in any port in Canada until the said penalty be paid.

144. The governor in council may, by regulation, dispense with any of the requirements of the two last preceding sections which he deems it inexpedient to enforce, with regard to vessels engaged in the coasting trade or inland navigation.

145. Before a clearance is granted to any vessel bound to a port or place out of Canada, the owners, shippers, or consignors of the cargo on board such vessel shall deliver to the collector or proper officer of customs entries of such parts of the cargo as are shipped by them respectively, and shall verify the same by oath; and such entries shall specify the kinds and quantities of the articles shipped by them respectively, and the value of the total quantity of each kind of articles, and whether the said goods are of Canadian or of foreign production or manufacture; and such oath shall state that such entry contains a full, just, and true account of all articles laden on board of such vessel by such owners, shippers, or consignors respectively; and that the values of such articles are truly stated according to their actual cost or the value which they truly bear at the port and time of exportation; and in case the goods so shipped or any part thereof be liable by law to any export duty, the amount of such duty shall be stated in such entry; and no such entry shall be valid, and no clearance shall be granted to such vessel until such duty is paid to the collector or proper officer of customs.

146. The owners, shippers, or consignors of any goods consigned to a port or place out of Canada, to be transported by railway or other land conveyance, shall enter the same for exportation at the custom-house nearest to the place of lading; and such entry shall specify the kinds and quantities of the articles laden by them respectively, and the proper name and description of the railway over which such goods are to be transported, or of any other conveyance to be used for the same purpose; and shall verify the same by oath, and such oath shall be of the same form and tenor as that required from owners, shippers, or consignors of goods to be transported by sea; and if any of such goods are liable by law to any export duty, such duty shall be clearly stated upon such entry, and no railway car or other vehicle upon which such goods are laden shall be permitted to leave the limits of the port at which such entry should have been made until such duty is paid to the collector or proper officer of customs, and if any such car or vehicle be taken out of the limits of such port, contrary to the provision of this section, the company or person so taking the same shall be liable to a penalty of not more than \$400.

147. The owner, shipper, or consignor of any goods who shall refuse or neglect to make report and entry of the articles shipped or laden by them respectively, as required by the two last preceding sections, shall incur a penalty not exceeding \$200 for each such offense.

148. The governor in council may, by regulations to be, from time to time, made in that behalf, require such further information with regard to the description, quantity, quality, and value of goods exported from Canada, or removed from one port to another in Canada, to be given to the proper officer of the customs, in the entry of such goods outwards or otherwise, as he deems requisite for statistical purposes, whether such goods be exported or removed by sea, land, or inland navigation.

149. No entry outwards nor any shipping warrant or warrant for taking goods from warehouse for exportation shall be deemed valid, unless the particulars of the goods and packages shall correspond with the particulars in the entry inwards, nor unless they shall have been properly described in the entry outwards, by the character, denomination, and circumstances under which they were originally charged with duty; and any goods laden or taken out of the warehouse by an entry outwards or shipping warrant not so corresponding or not properly describing them, shall be seized and forfeited.

150. If the owner of any goods be resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry outwards and clear and ship his goods; but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant; and the agent shall make the declaration on the entry which is required of the owner, and shall answer the questions that shall be put to him. Any trading corporation or company may appoint an agent for the like purpose.

151. The report for entry, inwards and outwards, required by this act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all

respects, and subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report were made by the master; and the word "master," for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the collector or proper officer of customs from calling upon the master of any steam vessel to answer all such questions concerning the vessel, passengers, cargo, and crew as might be lawfully demanded of him, if the report had been made by him, or to exempt the master from the penalties imposed by this act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he shall see fit so to do.

152. Whenever the collector of customs at any port is satisfied that in such port as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary, infectious, contagious, or epidemic disease, which could be transmitted by the vessel, her crew, or cargo, he may grant to any vessel requiring a bill of health a certificate, under his hand and seal, attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar.

153. If any person, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out or passes or attempts to pass through the custom-house any false, forged, or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors shall, in addition to any other penalty or forfeiture to which he and they may be subject for such offense, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty of not less than \$50 and not more than \$200, or to imprisonment for a term of not less than one month nor more than one year, or to both fine and imprisonment within the said limits, in the discretion of the court before whom the conviction is had.

154. If any person offers for sale any goods under pretense that the same are prohibited, or have been unshipped and run on shore, or brought in by land or otherwise without payment of duties, then and in such case all such goods (although not liable to any duties nor prohibited) shall be seized and forfeited, and every person offering the same for sale shall forfeit treble the value of such goods, or the penalty of \$200, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more justices of the peace; and in default of payment on conviction, the party so offending shall be committed to any of Her Majesty's jails for a period not exceeding sixty days.

155. If any person knowingly harbors, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada (whether such goods are dutiable or not), or whereon the duties lawfully payable have not been paid, such person shall, for such offense, forfeit treble the value of the said goods, as well as the goods themselves.

156. If any two or more persons in company are found together, and they or any of them have any goods liable to forfeiture under this act, every such person having knowledge of the fact, shall be guilty of a misdemeanor, and punishable accordingly.

157. Any person who, by any means, procures or hires or induces any person or persons to be concerned in the landing or unshipping, or carrying or conveying any goods which are prohibited to be imported, or for the landing of which permission has not been granted by the collector or proper officer of customs, shall, for every person so procured or hired or induced, forfeit the sum of \$100.

158. If any warehoused goods are concealed in or unlawfully removed from any customs warehouse in Canada, such goods shall be seized and forfeited, and any person concealing or unlawfully removing any such goods or aiding or abetting such concealing or removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into Canada, and on discovery of such concealment or removal all goods belonging to the importer or owner of the concealed or removed goods then remaining in the same or any other warehouse, shall be placed under detention until the duty payable on the goods so concealed or removed and all penalties incurred by him shall have been paid; and if such duties and penalties are not paid within one month after the discovery of the concealment or removal of such goods, the goods so detained shall be dealt with in the same manner as goods unlawfully imported or smuggled into Canada.

159. If the importer or owner of any warehoused goods, or any person in his employ, by any contrivance opens the warehouse in which the goods are or gains access to the goods except in the presence of or with the express permission of the proper officer of the customs, such importer or owner shall for every such offense forfeit the sum of \$100.

160. If any person by any contrivance gains access to bonded goods in a railway car, or to goods in a railway car upon which goods the customs duties have not been paid, or delivers such bonded or other goods without the express permission of the



proper officer of customs, such person shall for every such offense be liable to be imprisoned for any period not less than one month nor more than one year.

161. Any person wilfully altering, defacing, or obliterating any mark, placed by any officer of customs, on any package of warehoused goods, or goods in transit, shall, for every such offense, forfeit the sum of \$500.

162. All vessels with the guns, tackle, apparel, and furniture thereof, vehicles, harness, tackle, horses, and cattle made use of in the importation or unshipping or landing or removal of any goods liable to forfeiture under this act, shall be seized and forfeited; and every person assisting or otherwise concerned in importing, unshipping, landing, or removal, or in the harboring of such goods, or into whose hands or possession the same knowingly come, shall forfeit treble the value of such goods, or the penalty of \$200 at the election of the party suing for the same; and the averment in any information or libel exhibited for the recovery of such penalty, that such party has elected to sue for the sum mentioned in the information or libel, shall be sufficient proof of such election, without any other evidence of the fact.

163. If any vessel is found hovering (in British waters) within one league of the coasts or shores of Canada, any officer of customs may go on board and enter into such vessels and stay on board such vessel while she remains within the limits of Canada or within one league thereof; and if any such vessel is bound elsewhere and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of customs, such officer may bring the vessel into port and examine her cargo, and if any goods prohibited to be imported into Canada are on board, then such vessel with her apparel, rigging, tackle, furniture, stores, and cargo shall be seized and forfeited; and if the master or person in charge refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting such ship or vessel or her cargo, he shall forfeit and pay the sum of \$400.

164. Every person proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto or conveying or having conveyed anything subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard or destroyed, or in which any goods shall have been unlawfully brought into Canada, shall forfeit \$100, provided such person shall have been knowingly concerned in such acts.

165. Officers of customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen shall have been delivered; they shall have free access to every part of the vessel, with power to fasten down hatchways, the forecastle excepted, and to mark and secure any goods on board; and if any place, box or chest be locked, and the keys withheld, the officer may open the same. If any goods be found concealed on board they shall be seized and forfeited, and if any mark, lock, or seal upon any goods on board be wilfully altered, opened, or broken, before the delivery of the goods, or if any goods be secretly conveyed away, or if hatchways fastened down by the officer be opened by the master, or with his assent, the master shall forfeit \$400, and the vessel may be detained until the said fine be paid, or satisfactory security be given for the payment thereof.

166. The collector or other proper officer of the customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food, under a penalty of \$200.

167. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this act, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed, such goods so falsely marked or branded shall be seized and forfeited, and every such offender, and his aiders, abettors or assistants, shall, for every such offense, forfeit and pay the sum of \$200, which penalty shall be recoverable in a summary way, before any two justices of the peace in Canada; and in default of payment the party so offending shall be committed to any of Her Majesty's jails in Canada, for a period not less than two months and not exceeding twelve months.

168. If any person counterfeits or falsifies, or uses when so counterfeited or falsified, any paper or document required under this act, or for any purpose therein mentioned, whether written, printed, or otherwise, or by any false statement, procures such document, or forges or counterfeits any certificate relating to any oath, or declaration or affirmation hereby required or authorized, knowing the same to be so forged or counterfeited, such person shall be guilty of a misdemeanor, and being thereof convicted, shall be liable to be punished accordingly.

169. If any wilfully false oath, affirmation, or declaration be made in any case where, by this act, an oath, affirmation or declaration is required or authorized, the



party making the same shall be guilty of wilful and corrupt perjury, and liable to the punishment provided for that offense.

170. If any person required by this act or by any other law to answer questions put to him by any officer of the customs, refuses to answer or does not truly answer such questions, the person so refusing or not truly answering such questions, shall, over and above any other penalty or punishment to which he becomes subject, forfeit the sum of \$400.

171. Every officer and person employed under the authority of any act relating to the collection of the revenue, or under the direction of any officer in the customs department, or being an officer of the said department, shall be deemed and taken to be duly employed for the prevention of smuggling; and in any suit or information, the averment that such party was so duly employed shall be sufficient proof thereof.

172. Any such officer or person as mentioned in the next preceding section, and any sheriff or justice of the peace, or person residing more than 10 miles from the residence of any officer of customs and thereunto authorized by any collector of customs or justice of the peace, may, upon information, or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, or goods respecting which there has been any violation of any of the requirements of this act, and may go on board of and enter into any vessel or vehicle of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for such goods; and if any such goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness, and all other appurtenances which, at the time of such seizure, belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon, and the same shall be seized and forfeited.

173. Any officer or person in the discharge of the duty of seizing goods, vessels, vehicles, or property liable to forfeiture under this act, may call in such lawful aid and assistance in the Queen's name, as may be necessary for securing and protecting such seized goods, vessels, vehicles, or property; and if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited, or smuggled goods would be found therein, shall not be liable to any prosecution or action at law for any such search, detention or stoppage.

174. Every master or person in charge of any vessel, and every driver or person conducting or having charge of any vehicle or conveyance, refusing to stop when required to do so by an officer of customs, or person employed as such, in the Queen's name, and any person being present at any such seizure or stoppage, and being called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, and refusing so to do, shall forfeit and pay the sum of \$200, which penalty shall be summarily recovered before any two justices of the peace in Canada, or before any judge or magistrate having the powers of two justices of the peace; and in default of payment the offender shall be committed to any jail in Canada, for a period not exceeding six months.

175. Any officer of customs having first made oath before a justice of the peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular building, or in any yard or other place, open or inclosed, may, with such assistance as may be necessary, enter therein at any time between sunrise and sunset, but if the doors are fastened, then admission shall be first demanded, and the purpose for which entry is required declared, when, if admission shall not be given, he may forcibly enter; and when in either case entry shall be made, the officer shall search the premises, and seize all goods subject to forfeiture; these acts may be done by an officer of customs without oath or the assistance of a justice of the peace, in places where no justice resides, or where no justice can be found within five miles at the time of search.

176 If any building be upon the boundary line between Canada and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein, or carried through or into the same, without payment of duties and in violation of law, and if the collector or proper officer of customs makes oath before any justice of the peace that he has reason to believe as aforesaid, such collector or officer shall have the right to search such building and the premises belonging thereto, so far as the same may be within the limits of Canada, and if any such goods be found therein the same shall be seized and forfeited; and any merchant or the person who shall have been guilty of a violation of the provisions of this section shall be punishable by a fine of not less than \$200 nor more than \$1,000.

177. Upon application by or on behalf of the attorney-general of Canada to the exchequer court of Canada, or any judge thereof in chambers, such court or judge shall grant a writ of assistance for such officer or officers of customs as may be named in the application. Such writ shall have force and effect over the whole of Canada,

unless upon the application of the attorney-general it be limited to some part or parts thereof. Such writ shall remain in force so long as any person named therein remains an officer of the customs, whether in the same capacity or not, or until such writ is revoked by the minister of customs.

178. Every writ of assistance granted before the coming into force of this act, under the authority of the acts hereby repealed shall remain in force, notwithstanding such repeal, as if such acts had not been repealed.

179. Under the authority of a writ of assistance any officer of the customs, or any person employed for that purpose with the concurrence of the governor in council, expressed either by special order or appointment or by general regulation, may enter at any time in the day or night into any building or other place within the jurisdiction of the court granting such writ, and may search for and seize and secure any goods liable to forfeiture under this act, and in case of necessity, may break open any doors and any chests or other packages for that purpose.

180. Any officer of customs, or person by him authorized thereunto, may search any person on board any vessel or boat within any port in Canada, or in any vessel, boat or vehicle entering Canada by land or inland navigation, or any person who may have landed or got out of such vessel, boat, or vehicle, or who may have come into Canada from a foreign country in any manner or way, provided the officer or person so searching has reasonable cause to suppose that the person searched may have goods subject to entry at the customs, or prohibited goods, secreted about his person; and whoever obstructs or offers resistance to such search, or assists in so doing, shall thereby incur a forfeiture of \$100; and any person who may be on board of or may have landed from or got out of such vessel, boat, or vehicle, or who may have entered Canada from a foreign country in any manner or way, may be questioned by such officer, as to whether he has any such goods about his person, and if he denies having any such goods, or does not produce such as he may have, and any such goods are found upon him on being searched, the goods shall be seized and forfeited, and he shall forfeit treble the value thereof: *Provided*, That before any person can be searched, as aforesaid, such person may require the officer to take him or her before some police magistrate, justice of the peace, or before the collector or chief officer of the customs at the place, who shall, if he sees no reasonable cause for search, discharge such person; but if otherwise he shall direct such person to be searched; and if a female, she shall not be searched by any but a female; and any such magistrate or justice of the peace or collector of customs may, if there be no female appointed for such purpose, employ and authorize a suitable female person to act in any particular case or cases.

181. Any officer required to take any person before a police magistrate, justice of the peace, or chief officer of customs, as aforesaid, shall do so with all reasonable dispatch; and if any officer requires any person to be searched without reasonable cause, such officer shall forfeit and pay any sum not exceeding \$40.

182. If any goods or property or vehicle, subject or liable to forfeiture under this act, or any other law relating to the customs, are stopped or taken by any police or peace officer, or any person duly authorized, such goods and property and vehicles shall be taken to the custom-house next to the place where the same were stopped or taken and there delivered to the proper officer authorized to receive the same within forty-eight hours after the same were stopped and taken.

183. If any such goods or property or vehicles are stopped or taken by such police or peace officer on suspicion that the same have been feloniously stolen, such officer shall carry the same to the police office to which the offender is taken, there to remain until and in order to be produced at the trial of the said offender; and in such case the officer shall give notice in writing to the collector or principal officer of Her Majesty's customs at the port nearest to the place where such goods have been detained, of his having so detained the said goods, with the particulars of the same, and immediately after the trial all such goods shall be conveyed to and deposited in the custom-house or other place appointed as aforesaid, and proceedings relative to the same shall be had according to law.

184. In case any police or peace officer, having detained such goods, neglects to convey the same to the custom-house, or to give notice of having stopped the same as before prescribed, such officer shall forfeit the sum of \$100; and such penalty shall be recoverable in a summary way before any one or more justices of the peace or any police magistrate, and in default of payment the party so offending shall be committed to any of Her Majesty's jails for a period not exceeding thirty days.

185. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, vehicle, or other thing which have been seized or detained on suspicion, as forfeited under this act, before the same have been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority, such person shall be deemed to have stolen such goods, being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment accordingly.



186. If any person, under any pretense, either by actual assault, force, or violence, or by threats of such assault, force, or violence, in any way resists, opposes, molests, or obstructs any officer of customs, or any person acting in his aid or assistance, in the discharge of his or their duty, under the authority of this act, or any other law in force in Canada, relating to customs, trade, or navigation, or wilfully or maliciously shoots at or attempts to destroy or damage any vessel belonging to Her Majesty, or in the service of the Dominion of Canada, or maims or wounds any officer of the Army, Navy, marine, or customs, or any person acting in his aid or assistance while duly employed for the prevention of smuggling and in execution of his or their duty—or if, any person is found with any goods liable to seizure or forfeiture, under this act or any other law relating to customs, trade, or navigation, and carrying offensive arms or weapons, or in any way disguised, or staves, breaks, or in any way destroys any such goods, before or after the actual seizure thereof, or scuttles, sinks, or cuts adrift any vessel, or destroys or injures any vehicle or animal, before or after the seizure, or wilfully and maliciously destroys or injures, by fire or otherwise, any custom-house or any building whatsoever in which seized, forfeited, or bonded goods are deposited or kept, such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable accordingly.

187. If any officer of the customs, or any person who, with the concurrence of the minister of customs, is employed for the prevention of smuggling, makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any vessel, boat, carriage, goods, or thing liable to forfeiture under this act, or takes or accepts a promise of any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, such officer or other person shall be guilty of a misdemeanor, and, on conviction, forfeit for every such offense the sum of \$500, and be imprisoned for a period not less than three months nor more than two years, and be rendered incapable of serving Her Majesty in any office whatever; and every person who gives, or offers or promises to give, or procure to be given, any bribe, recompense, or reward to, or makes any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal or connive at any act whereby the provisions of this act, or any law relating to the customs, trade, or navigation, might be evaded, shall be guilty of a misdemeanor, and shall, on conviction, forfeit for every such offense the sum of \$500, and be imprisoned for a period not less than three months nor more than two years.

188. All penalties and forfeitures incurred under this act, or any other law relating to the customs or to trade or navigation, may, in addition to any other remedy provided by this act or by law, be prosecuted, sued for, and recovered, with full costs of suit, in the exchequer court of Canada, or in any superior court having jurisdiction in that province in Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed \$200, the same may, in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, British Columbia, Manitoba, and Prince Edward Island, respectively, also be prosecuted, sued for, and recovered in any county court or circuit court having jurisdiction in the place where the cause of prosecution arises, or where the defendant is served with process.

189. All penalties and forfeitures imposed by this act, or by any other act relating to the customs or to trade or navigation, shall, unless other provisions be made for the recovery thereof, be sued for, prosecuted, and recovered, with cost, by Her Majesty's attorney-general of Canada, or in the name or names of the commissioner of customs, or some officer or officers of the customs, or other person or persons thereunto authorized by the governor in council, either expressly or by general regulation or order, and by no other party.

190. All penalties and forfeitures imposed by this act, or by any other law relating to the customs or to trade or navigation, may, in the Province of Quebec, be sued for, prosecuted, and recovered, with full costs of the suit, by the same proceeding as any other moneys due to the Crown, and all suits or prosecutions for the recovery thereof shall, in that province, be heard and determined in like manner as other suits or prosecutions in the same court for moneys due to the Crown, except that in the circuit court the same shall be heard and determined in a summary manner; but nothing in this section shall affect any provisions of this act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid.

191. Any prosecution or suit in the exchequer court of Canada, or in any superior court or circuit court of a province, for the recovery of any penalty or forfeiture imposed by this act, or by any other law relating to the customs or to trade or navigation, may be commenced, prosecuted, and proceeded with in accordance with any rules of practice, general or special, established by the court for Crown suits in revenue matters, or in accordance with the usual practice and procedure of the court in civil cases in so far as such practice and procedure may be applicable, and wherever not cases in so far as such practice and procedure may be applicable, and wherever not applicable, then in accordance with the directions of the court or a judge in chambers.



The venue in any such prosecution or suit may be laid in any county in the province, notwithstanding that the cause of prosecution or suit did not arise in such county.

192. Any judge of the court in which any prosecution or suit is brought for the recovery of any penalty or forfeiture as aforesaid may, upon being satisfied by affidavit that there is reason to believe that the defendant will leave the province without satisfying such penalty or forfeiture, issue a warrant under his hand and seal for the arrest and detention of the defendant in the common jail of the county, district, or place until he has given security (before and to the satisfaction of such judge or some other judge of the same court) for the payment of such penalty, with costs, in case judgment be given against him.

193. In any declaration, information, statement of claim, or proceeding in any such prosecution or suit, it shall be sufficient to state the penalty or forfeiture incurred, and the act or section under which it is alleged to have been incurred, without further particulars; and the averment that the person seizing was and is an officer of the customs shall be sufficient evidence of the fact alleged unless it be contradicted by some superior officer of the customs.

194. In every prosecution, information, suit, or proceeding brought under this act for any penalty or forfeiture, or upon any bond given under it, or in any matter relating to the customs or to trade or navigation, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit; and all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the defendant, in the same manner as sums recovered by judgment of the court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner.

195. If in any case the attorney-general is satisfied that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he may see fit, and which shall be binding on all parties; the entry of such *nolle prosequi* shall be reported to the minister of customs, with the reasons therefor.

196. In any prosecution, suits or other proceeding for the recovery of any penalty or forfeiture as aforesaid, or for an offense against this act or any other law relating to the customs, or to trade or navigation, the averment that the cause of prosecution or suit arose, or that such offense was committed, within the limits of any district, county, port, or place shall be sufficient, without proof of such limits; unless the contrary is proved.

197. If any prosecution or suit is brought for any penalty or forfeiture under this act, or any other law relating to the customs or to trade or navigation, and any question arises whether the duties have been paid on any goods, whether the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such penalty or forfeiture would be avoided, the burden of proof shall lie on the owner or claimant of the goods, and not on the party bringing such prosecution or suit.

198. All vessels, vehicles, goods, and other things seized as forfeited under this act, or any other law relating to customs, or to trade or navigation, shall be placed in the custody of the nearest collector and secured by him, or if seized by an officer in charge of a revenue vessel, shall be retained on board thereof until her arrival in port, and shall be deemed and taken to be condemned, without suit, information, or proceedings of any kind, and may be sold, unless the person from whom they were seized, or the owner thereof, or some person on his behalf, within one month from the day of seizure, do give notice in writing to the seizing officer or other chief officer of the customs at the nearest port that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall always lie upon the person claiming.

199. Notwithstanding that no such notice has been given, proceedings for the condemnation of the things seized may be commenced and prosecuted to judgment.

200. So soon as proceedings have been commenced in any court for the condemnation of anything seized, notice thereof shall be posted up in the office of the clerk, registrar, or prothonotary of the court, and also in the office of the collector at the port at which the thing has been seized as aforesaid; and if it be a vessel, shall also be posted on a mast thereof, or on some other conspicuous place on board.

201. Any person desiring to claim anything seized after proceedings for condemnation thereof have been commenced must file such claim in the office of the clerk, registrar, or prothonotary of the court; such claim must state the name, residence, and occupation or calling of the person making it, and must be accompanied by an affidavit of the claimant or his agent having a knowledge of the facts, setting forth the nature of the claimant's title to the thing seized.

202. Before any claim can be filed the claimant shall give security to the satisfaction of the court or a judge thereof by bond in a penalty of not less than \$200, or by a de-

posit of money not less than that sum, for the payment of the costs of the proceedings for condemnation.

203. If within one month after the last posting of the notice, under section 200, no claim to the thing seized be duly made, and security for costs given in accordance with the provisions of this act and of the practice of the court, judgment by default for the condemnation of the thing seized may, with the leave of the court or a judge thereof, be entered.

204. Any collector of customs may, as may also any court or judge having competent jurisdiction to try and determine the seizure, with the consent of the collector at the place where the things seized are, order the delivery thereof to the owner, on the deposit with the collector in money of a sum at least equal to the full duty-paid value (to be determined by the collector) of the things seized and the estimated costs of the proceedings in the case; and any sum or sums of money so deposited shall be immediately deposited in some bank appointed for that purpose by competent authority, to the credit of the receiver-general of Canada, there to remain until forfeited in due course of law or released by order of the minister of customs; and in case such seized articles are condemned, the money deposited shall be forfeited.

205. If the thing seized be an animal or a perishable article, the collector at whose port the same is may sell the same so as to avoid the expense of keeping it or to prevent its becoming deteriorated in value. The proceeds of such sale shall be deposited in some chartered bank to the credit of the receiver-general of Canada, and shall abide the judgment of the court with respect to the condemnation of the thing seized, in case proceedings for condemnation be taken in court, or shall become the property of Her Majesty, in case the thing seized becomes condemned without proceedings in court: Provided always, that the collector shall deliver up such animal or perishable article to the claimant thereof upon such claimant depositing with him a sum of money sufficient in the opinion of the collector to represent the duty-paid value of the thing claimed and the costs of any proceedings to be taken in court for the condemnation of the thing seized. The money so deposited shall be paid into some chartered bank to the credit of the receiver-general of Canada, and shall be dealt with in the same manner as above provided for in the case of the proceeds of a sale of such thing.

206. If notice of intent to claim has been given, and the value of the goods or thing seized does not exceed \$100 and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser, and if such appraiser certifies them to be under the said value, a summary information, in writing, may be exhibited in the name of the collector at or nearest to the place of seizure, or in the name of any officer authorized thereto by the minister of customs, before two justices of the peace, charging the articles seized as forfeited under some particular act and section thereof, to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place, there to claim the articles seized and answer the information, otherwise such articles will be condemned; and a copy of the notice shall, at least eight days before the time of appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if any, and if there remaining, or at two public places nearest the place of seizure; if any person appears to answer the information, the justices shall hear and determine the matter in a summary manner and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given; and the justices, on condemnation, shall issue a warrant to the collector to sell the goods; and such two justices shall be deemed a court, and each of them to be a judge thereof, for the purposes of this act.

207. All prosecutions or suits for the recovery of any of the penalties or forfeitures imposed by this act, or any other law relating to the customs, may be commenced at any time within three years after the cause of prosecution or suit arose, but not afterwards; and the vessels, vehicles, goods, or things forfeited shall be liable to forfeiture during the same period.

208. An appeal shall lie from a conviction by any magistrate, judge, justice or justices of the peace under this act in the manner provided by law from convictions in cases of summary conviction in that province in which the conviction was had, on the appellant furnishing security, by bond or recognizance with two sureties, to the satisfaction of such magistrate, judge, justice or justices of the peace, to abide the event of such appeal.

209. And an appeal shall also lie from the exchequer court of Canada, the superior, county, and circuit courts, respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount were given in any civil case an appeal would lie; and such appeal shall be allowed and prosecuted on like conditions and subject to like provisions as other appeals from the same court in matters of like amount.



210. If the appeal be brought by Her Majesty's attorney-general, or a collector or officer of the customs, it shall not be necessary for him to give any security on such appeal.

211. In any case in which proceedings have been instituted in any court against any vessel, vehicle, goods, or thing, for the recovery of any penalty or forfeiture under this act, or any law relating to the customs, trade, or navigation, the execution of any decision or judgment for restoring the thing to the claimant thereof shall not be suspended by reason of any appeal from such decision or judgment, provided the claimant gives sufficient security, to be approved of by the court, or a judge thereof, to render and deliver the thing in question, or the value thereof, to the appellant, in case the decision or judgment so appealed from be reversed.

212. All sales of goods forfeited or otherwise liable to be sold under this act shall be by public auction, and after a reasonable public notice, and subject to such further regulations as may be made by the governor in council; but in any case the minister of customs may order vessels, goods, vehicles, or things forfeited to be disposed of as he may see fit, instead of being sold by public auction.

213. The proceeds, after deducting expenses, shall, unless it be otherwise provided, belong to Her Majesty for the public uses of the Dominion; but the net proceeds, or any portion thereof, may be divided between and paid to the collector or chief officer of the customs at the port or place where the seizure was made, and the officer or officers by whom the seizure was made, or the information given which led to the seizure, and any person who has given information or otherwise aided in effecting the condemnation of the thing seized, in such proportions as the governor in council may in any case or class of cases direct and appoint; but nothing herein contained shall be construed to limit or affect any power vested in the governor in council or the minister of customs to make and ordain any other plan or system for the distribution of such net proceeds, or with regard to the remission of penalties or forfeitures imposed by this act or any other law.

214. When any goods have been seized or detained under any of the provisions of this act, or of any law relating to the customs, the importer or exporter thereof, and the owner or claimant thereof, shall immediately, upon being required so to do by the collector or other proper officer of customs of the port where the seizure or detention took place, produce and hand over all invoices, bills, accounts, and statements of the goods so seized or detained, and of all other goods imported into Canada by him at any time within three years next preceding such seizure or detention; and shall also produce for the inspection of such collector or other officer, and allow him to make copies of, or extracts from, all books of account, ledgers, day-books, cash-books, letter-books, invoice-books, or other books wherein any entry or memorandum appears respecting the purchase, importation, cost, value, or payment of the goods so seized or detained, and of all other goods as aforesaid.

215. If any person required under the next preceding section to produce and hand over invoices, bills, accounts, and statements, or to produce for inspection books of accounts, ledgers, day-books, cash-books, letter-books, invoice-books, and other books, or to allow copies or extracts to be made therefrom, neglects or refuses so to do, he shall incur a penalty of not less than \$200 nor more than \$1,000.

216. If in any prosecution, information, or suit respecting any seizure made under this act, or any law relating to the customs, decision or judgment be given for the claimant, and if the judge or court before whom the case has been tried or brought certifies that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution account of his making or being concerned in the making of such seizure, the plaintiff, if probable cause is certified as aforesaid, shall not be entitled to more than twenty cents damages nor to any costs, nor shall the defendant in such prosecution in such case be fined more than ten cents.

217. Goods claimed to be exempt from duty under any act relating to duties of customs shall, in the entry thereof, be described and set forth in the words by which they are described to be free in the act or schedule; and goods not answering such description shall be seized and forfeited; or if the collector deems it expedient, he may detain the goods and report the case for the action of the commissioner of customs and the decision of the minister of customs, as provided in this act.

218. When any vessel, vehicle, goods, or thing has been seized or detained under any of the provisions of this act or of any law relating to the customs, or when it is alleged that any penalty or forfeiture has been incurred under the provisions of this act, or of any law relating to the customs, the collector or the proper officer shall forthwith report the circumstances of the case to the commissioner of customs.

219. The commissioner may thereupon notify the owner or claimant of the thing seized or detained, or his agent, or the person alleged to have incurred the penalty or forfeiture, or his agent, of the reasons for the seizure, detention, penalty, or forfeiture, and call upon him to furnish, within thirty days from the date of the notice, such evi-



dence in the matter as he may desire to furnish. Such evidence may be by affidavit or affirmation, made before any justice of the peace, any collector of customs, any commissioner for taking affidavits in any court, or any notary public.

220. After the expiration of the said thirty days, or sooner if the person so called upon to furnish evidence so desires, the commissioner may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the minister of customs.

221. The minister may thereupon give his decision in the matter, respecting the seizure, detention, penalty, or forfeiture, and the terms (if any) upon which the thing seized or detained may be released, or the penalty or forfeiture remitted; and if the owner or claimant of the thing seized or detained, or the person alleged to have incurred the penalty, signifies in writing, by himself or his agent, his acceptance of the decision, he shall be bound thereby, and the terms thereof may be enforced and carried out, and in any action, suit or proceeding to recover any money claimed by virtue of such decision the person accepting the same shall not be at liberty to set up that the thing seized was not liable to seizure or detention, or that he had not incurred any penalty or forfeiture.

222. But if the said owner, or claimant, or person, or his agent, within twenty days after having been notified of the decision, gives to the minister of customs notice in writing that such decision will not be accepted, or if such twenty days elapse without such decision being accepted, proceedings for the condemnation of the thing seized or for the enforcement of the penalty or forfeiture may be taken without delay.

223. If the said decision be accepted as by this act provided, and if the terms thereof be not forthwith complied with, the minister of customs may elect either to enforce the terms of the decision or to take proceedings for the condemnation of the thing seized, or for the enforcement of the penalty or forfeiture.

224. If a term of the decision be that the thing seized or detained be released upon payment of a sum of money, and if such money be not paid forthwith after acceptance of the decision, and if the minister elects to enforce the decision, such thing may be sold and the net proceeds applied towards payment of such sum, the balance (if any) to be handed over to the person entitled thereto. If such net proceeds be not sufficient to pay such sum the person accepting the decision shall be liable to pay the amount of the deficiency, and the same may be recovered from him as a debt due to Her Majesty.

225. If after acceptance of the decision, the person required thereby to pay any sum of money as a penalty or forfeiture, does not forthwith pay the same, the amount thereof may be recovered from him as a debt due to Her Majesty.

226. No action, suit, or proceeding shall be commenced, no writ shall be sued out against, nor a copy of any process served upon any officer of the customs or person employed for the prevention of smuggling as aforesaid, or upon any officer of customs for anything done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of any cause of such action shall be produced except of such as is contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial that such notice was given; and, in default of such proof, the defendant shall receive a verdict, or judgment and costs.

227. Any such officer or person against whom any action, suit, or proceeding is brought on account of anything done in the exercise of his office, may, within one month after such notice, tender amends to the party complaining, or his agent, and plead such tender in bar to the action, together with other pleas; and if the court or jury (as the case may be) find the amends sufficient, judgment or verdict shall be given for the defendant, and in such case, or in case the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to full costs of defense; the defendant, by leave of the court in which the action is brought, may, at any time before issue joined, pay money into court as in other actions.

228. Every such action, suit, or proceeding must be brought within three months after the cause thereof, and laid and tried in the place or district where the facts were committed; and the defendant may plead the general issue and give the special matter in evidence; and if the plaintiff becomes non-suited or discontinues the action, or if upon a demurrer or otherwise judgment is given against the plaintiff the defendant shall recover full costs of defense.

229. If in any such action, suit, or proceeding, the court or judge before whom the action is tried certifies upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than 20 cents damages nor to any costs of suit, nor in case of a seizure shall the person who

made the seizure be liable to any civil or criminal suit or proceeding on account thereof.

230. In addition to the purposes and matters hereinbefore or hereinafter mentioned, the governor in council may from time to time, and in the manner hereinafter provided, make regulations for or relating to the following purposes and matters :

(1) For the warehousing and bonding of such cattle and swine as may be slaughtered and cured in bond, and of such wheat, maize, and other grain as may be ground and packed in bond, and of such sugar as may be refined in bond.

(2) For the branding and marking of all duty-paid goods and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods.

(3) For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or classes of cases, and for relaxing or dispensing with any of the requirements of this act, as to vessels engaged in such trade, on any conditions which he may see fit to impose.

(4) For appointing places and ports of entry, and warehousing and bonding ports, and respecting goods and vessels passing the canals, and respecting the horses, vehicles and personal baggage of travelers coming into Canada, or returning thereto, or passing through any portion thereof.

(5) For regulating or restricting the importation of spirits, wine, and malt liquors, or other goods requiring to be weighed, gauged, or tested for strength or quantity, and limiting or prescribing the kind and capacity of packages in which the same may be imported, and the conveyances by which and the ports or places at which the same may be landed and entered.

(6) For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground, or any boards, planks, or scantling, the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn.

(7) For regulating the quantity to be so taken out or brought in at any one time by any party, and the mode in which the claim to exemption shall be established and proved.

(8) For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, and of removing such goods therefrom, and the amount of warehouse rent or license fees.

(9) For extending either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another.

(10) For regulating the form in which transfers of goods in warehouse or bond from one party to another shall be entered.

(11) For exempting goods from duty as being the growth, produce, or manufacture of Newfoundland, if such exemption be provided for by any act relating to Customs, and for regulating the mode of proving such exemption.

(12) For transferring to the list of goods which may be imported into Canada free of duty, any or all articles (whether natural products or products of manufactures) used as materials in Canadian manufactures, and any such materials transferred to the free list by such order in council, shall be free of duty of customs for the time therein appointed for that purpose; and for granting a drawback of the whole or part of the duty paid on articles which may have been used in Canadian manufactures; or for granting a certain specific sum in lieu of any such drawback.

(13) For appointing the manner in which the proceeds of penalties and forfeitures shall be distributed.

(14) For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or part remission of duty, indulgence or permission is granted to any party, or any other condition made with such party, in the matter relating to the customs or to trade or navigation; and such bonds, and all bonds taken with the sanction of the minister of customs expressed either by general regulation or by special order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this act or any other law relating to the customs.

(15) For any other purpose for which by this act, or any other law relating to the customs or to trade and navigation, the governor in council is empowered to make orders or regulations; it being hereby declared competent for him (if he deems it expedient) to make general regulations in any matter in which he may make a special order, and any such general regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectively as if the same referred directly



to each particular case within the intent and meaning thereof, and the officers, functionaries, and parties had been specially named therein.

231. And whereas it frequently happens that goods are conveyed, directly through the Canadian canals or otherwise by land or inland navigation, from one part of the frontier line between the Dominion of Canada and the United States to another, without any intention of unloading such goods in Canada, and that travelers in like manner pass through a portion of Canada, or come into it, with their carriages, horses, or other cattle drawing the same, and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, return to it with such articles, and though the bringing of such goods and other articles into Canada is strictly an importation thereof, it may nevertheless be inexpedient that duties should be levied thereon; with regard to all such cases as aforesaid, the governor in council may, from time to time, and as occasion may require, make such regulations as to him seem meet, and may direct under what circumstances such duty shall be or shall not be paid, and on what conditions it shall be remitted or returned, and may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer (whether by placing officers of the customs on board any such vessel or carriage or otherwise) as to him seem meet; and on the refusal of the importer to comply with the regulations to be so made, the duty on the goods so imported shall forthwith become payable; and all and every animal, vehicle, or goods of any kind, brought into Canada by any traveler, exempted from duty under such regulations or otherwise, shall, if sold or offered for sale in Canada, provided the duties thereon have not been previously paid, be held to have been illegally imported, and shall be seized and forfeited, together with the harness or tackle employed therewith or in the conveyance thereof.

232. In any regulation made by the governor in council, under this act, any oath or declaration may be prescribed and required which the governor in council deems necessary to protect the revenue against fraud, and any person or officer may be authorized to administer the same; and by any such regulation, a declaration may be substituted for an oath in any case where an oath is required by this act.

233. The governor in council may by proclamation or order in council, at any time, and from time to time, prohibit the exportation or the carrying coastwise or by inland navigation of the following goods: Arms, ammunition, and gunpowder, military and naval stores, and any articles which the governor in council shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food by man; and, if any goods so prohibited be exported, carried coastwise, or by inland navigation, or waterborne, or laden in any railway carriage, or other vehicle, for the purpose of being so exported or carried, they shall be seized and forfeited.

234. The governor in council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a coasting license, shall, on entering any port in the Dominion with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents, or one dollar, according to the burthen of the vessel, on each clearance of such vessel at any port; and such fees shall be payable accordingly before such vessel shall be entered or cleared; provided that the governor in council may reduce or readjust such fees, but may not increase them; and provided also, that vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees.

235. All goods shipped or unshipped, imported or exported, carried or conveyed contrary to any regulation made by the governor in council, and all goods or vehicles and all vessels under the value of \$400, with regard to which the requirements of any such regulations have not been complied with, shall be seized and forfeited, and if such vessel be of or over the value of \$400, the master thereof shall, by such non-compliance, incur a penalty of \$400, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof; and any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same court and tribunal, as if incurred by the contravention of any direct provision of this act.

236. All general regulations made by the governor in council under this act, shall have effect from and after the day on which the same have been published in the Canada Gazette, or from and after such later day as may be appointed for the purpose in such regulations, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same are revoked or altered; and all such regulations may be revoked, varied, or altered by any subsequent regulation; and a copy of the Canada Gazette containing any such regulation shall be evidence of such regulation to all intents and purposes whatsoever.



237. Any copy of an order of the governor in council made in any special matter, and not being a general regulation, certified as a true copy by the clerk or assistant clerk of the Queens privy council for Canada, shall be evidence of such order to all intents and purposes whatsoever.

238. In every case where the person required to take any oath under any act or regulation relating to the customs, is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath hereby required make a solemn affirmation to the same effect; and every person before whom any oath is, by any such act or regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and the wilfully making any false statement in any such oath shall be perjury, and the wilfully making any false statement in such solemn affirmation shall be a misdemeanor punishable as perjury.

239. Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel, such importation, if made by sea, coastwise, or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported came within the limits of the port at which they ought to be reported, and, if made by land or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada; and the exportation of any goods shall be deemed to have been commenced from the time of the legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation be by land or in any undecked vessel; and the time of the arrival of any vessel shall be deemed to be the time at which the report of such vessel was, is, or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage for which she departed.

240. Although any duty of customs has been overpaid, or although after any duty of customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment, unless application for repayment has been previously made.

241. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer; and should any error of the kind be discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the collector, in order that the same may be verified.

242. The governor in council may, under regulations to be made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of customs has been paid, a drawback equal to the duty so paid, with such deduction therefrom as may be provided in such regulations; and in cases to be mentioned in such regulations and subject to such provisions as may be therein made, such drawback or a specific sum in lieu thereof, may be allowed on duty-paid goods manufactured or wrought in Canada into goods exported there from as aforesaid; and the period within which such drawback may be allowed after the time the duty was paid shall be limited in such regulations.

243. All bonds and securities of what kind and nature soever authorized to be taken by any law relating to customs, trade, or navigation shall be taken to and for the use and benefit of Her Majesty, and such bonds shall be taken before the performance of any act or matter with regard to which the taking of any such bond or bonds is required.

244. All bonds, documents, and papers necessary for the transaction of any business at the respective custom houses or places or ports of entry in Canada, shall be in such form as the minister of customs shall from time to time direct.

245. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the customs in the United Kingdom, or of any collector of colonial revenue in any of the British possessions in America or the West Indies, or other British possessions, or of any British consul or vice-consul in a foreign country, and certificates and copies of official papers made pursuant to this act or any act in force in Canada relating to the customs or revenue, shall be received as presumptive evidence in reference to any matter contained in this act or any act relating to the customs or on the trial of any suit in reference to any such matter.

246. Whenever any person makes any application to an officer of the customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business; and any act or thing done or performed by such agent shall be binding upon the person by or on behalf of whom the same is done or per-

formed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal.

247. Any attorney and agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the collector, may, in his said quality, validly make any entry, or execute any bond or other instrument required by this act, and shall thereby bind his principal as effectually as if such principal had himself made such entry or executed such bond or other instrument, and may take the oath hereby required of a consignee or agent, if he be cognizant of the facts therein averred; and any instrument appointing such attorney and agent shall be valid if in the form prescribed by the minister of customs.

248. Any partner in an incorporated company, association, or copartnership of persons, or their attorney and agent authorized as aforesaid, may, under the name and style usually taken by such company, association, or copartnership, make any entry or execute any bond or other instrument required by this act, without mentioning the name or names of any of the members or of the other members of the company or association or partnership, and such entry, bond, or instrument shall nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such member or partner had been therein mentioned and he had signed the same, and (if it be a bond or other instrument under seal) as if he had thereunto affixed his seal and had delivered the same as his act and deed; and the seal thereunto affixed shall be held to be the seal of each and every such member or partner as aforesaid; and the provisions of this section shall apply to any instrument by which any company, association, or partnership of persons appoint an attorney or agent to act for them under the next preceding section. The person who, under this section, makes any entry or executes any bond or instrument on behalf of any company, association, or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their attorney," or words to the like effect, as the case may be, thereunto prefixed.

*SCHEDULE.—Acts repealed subject to the provisions made in section 3 of this act.*

1. The act passed in the fortieth year of Her Majesty's reign, chaptered ten, and entitled "An act to amend and consolidate the acts respecting the customs."
2. The act passed in the forty-fourth year of Her Majesty's reign, chaptered eleven, and entitled "An act to amend the act, fortieth Victoria, chapter ten, entitled 'An act to amend and consolidate the acts respecting the customs.'"

*Analytical index, published by the customs department for use of collectors and officers of customs.*

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| Particulars of, must correspond with report .....                                                                                                          | 48       | .....            |
| Shipping, or other must correspond with entry inwards .....                                                                                                | 149      | .....            |
| Shipping, to give name of agent and residence of owner .....                                                                                               | 150      | .....            |
| <b>Weights and measures:</b>                                                                                                                               |          |                  |
| According to which duties must be collected .....                                                                                                          | 12       | .....            |
| Allowance for, to be fixed by governor in council .....                                                                                                    | 64       | .....            |
| <b>Wheat:</b> May be ground in bond .....                                                                                                                  | 130-230  | 1                |
| <b>Witness:</b> Oath of one or more required as proof for goods lost or destroyed before landing .....                                                     | 58       | .....            |
| <b>Wreck:</b>                                                                                                                                              |          |                  |
| Goods may be landed from vessels, before entry, &c. ....                                                                                                   | 35       | .....            |
| Derelict, flotsam or jetsam, goods, subject to duty .....                                                                                                  | 60       | .....            |
| Penalty for not reporting such goods, &c. ....                                                                                                             | 61       | .....            |
| <b>Writ of assistance:</b>                                                                                                                                 |          |                  |
| How obtainable, &c. ....                                                                                                                                   | 177      | .....            |
| Existing, to remain in force .....                                                                                                                         | 178      | .....            |
| Powers given for effective searching by day or night .....                                                                                                 | 179      | .....            |
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No. 236.

*Sir L. West to Mr. Bayard.*WASHINGTON, *December 7, 1886.* (Received December 9.)

SIR: With reference to your note of the 30th of July last, I am instructed by the Earl of Iddesleigh to communicate to you the inclosed copy of a dispatch, with its inclosures, from the officer administering the Government of Canada, respecting the action of the customs officer at Magdalen Islands, in the case of the United States fishing vessel *Mascotte*.

I have, &amp;c..

L. S. SACKVILLE WEST.

[Inclosure 1 in note of December 7, 1886.]

*Acting Governor Lord A. G. Russell to Mr. Stanhope.*HALIFAX, NOVA SCOTIA, *October 30, 1886.*

SIR: With reference to your telegraphic message of the 22d August, and to your dispatch of the 25th of August, marked Secret, transmitting copy of a dispatch from Her Majesty's chargé d'affaires at Washington, with a note from Mr. Bayard, complaining of the action of the customs officer at Magdalen Islands with reference to the American fishery schooner *Mascotte*. I have the honor to forward herewith a copy of an approved minute of the privy council of Canada, embodying a report of the minister of marine and fisheries on the subject.

I have, &amp;c.,

A. G. RUSSELL,  
*General.*

[Inclosure 2 in note of December 7, 1886.]

*Report of a committee of the honorable the privy council, approved by his excellency the administrator of the Government in council for Canada on the 30th day of October, 1886.*

The committee of the privy council have had under consideration a telegram of the 2d August and a dispatch of the 25th August last, from the right honorable the secretary of state for the colonies, transmitting copy of a letter from Her Majesty's minister at Washington, inclosing a note from Mr. Secretary Bayard, complaining of the action of the customs officer at Magdalen Islands, with reference to the American fishing schooner *Mascotte*.

The minister of marine and fisheries, to whom the correspondence was referred, observes that Mr. Bayard, in his note to the British minister at Washington, says:

"I am also in possession of the affidavit of Alex. T. Vachem,\* master of the American fishing schooner *Mascotte*, who entered Port Amherst, Magdalen Islands, and was there threatened by the customs official with seizure of his vessel if he attempted to obtain bait for fishing or take a pilot."

And from a report of the customs officer at Magdalen Islands, a copy of which, so far as it relates to the case in point, is hereto annexed, it appears that no grounds exist for the complaint made by the master of the *Mascotte*.

The minister states that Captain Vachem [McEachern] was served with a printed copy of the "warning," and was, in addition, informed by the collector that under the treaty of 1818 he had no right to buy bait or to ship men. He was not forbidden to take fish, but, on the contrary, the collector pointed out to him on the chart the places in which, by the convention of 1818, he, as a United States fisherman, had the right to inshore fishing, and one of the places so pointed out to him was the Magdalen Islands.

Notwithstanding the "warning" and the personal explanation of the collector, it appears that Captain Vachem [McEachern] did go up the country and attempt to hire men, and upon his return informed the collector that he could not get any. For this, clearly an illegal act, he was not interfered with by the collector.

The minister further observes that the convention of 1818, while it grants to United States fishermen the right of fishing in common with British subjects on the shores of the Magdalen Islands, does not confer upon them privileges of trading or of shipping men, and it was against possible acts of the latter kind, and not against fishing inshore, or seeking the rights of hospitality guaranteed under the treaty, that Captain Vachem [McEachern] was warned by the collector.

With reference to the remarks of the colonial secretary that "Her Majesty's Government would recommend that special instructions should be issued to the authorities at the places where the inshore fisheries has been granted by the convention of 1818 to the United States fishermen, calling their attention to the provisions of that convention, and warning them that no action contrary thereto may be taken in regard to United States fishing vessels," the minister states that the circular instructions issued to collectors of customs recite the articles of the convention of 1818, which grant to United States fishermen the right to take fish upon the shore of the Magdalen Islands, and of certain parts of the coasts of Labrador and Newfoundland, which instructions the collector in question had received, and the import of which his report shows him to be familiar with.

In addition to this, the commander of the fishery protection steamer *La Canadienne* was ordered to visit Magdalen Islands, and explain fully to collectors there the extent of their powers.

The minister, in view of these instructions, printed and oral, does not deem it necessary to send further special orders.

The committee, concurring in the foregoing report, advise that your excellency be moved to transmit a copy hereof, if approved, to the right honorable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,  
Clerk, Privy Council.

[Inclosure 3 in note of December 7, 1886.]

*Mr. Poinchaud to the Minister of Marine and Fisheries.*

CUSTOM-HOUSE, MAGDALEN ISLANDS,  
August 28, 1886.

SIR: I beg to acknowledge the receipt of your telegram respecting captain of the schooner *Mascotte*'s report in reference to my having threatened him with seizure.

I replied, on receipt: "*Mascotte* information incorrect. Particulars per mail Tuesday."

\* So in the British copy. The master's name is Alex. McEachern. (See Doc. No. 66, page 147.)



Particulars: On arrival of the captain I served him a "warning" personally; informed him he could not buy [ (f) bait] or ship men.

I say this to all American fishermen. He tried, however, to hire; went up the country to hire, but could not hire a man.

I saw him and men go up, and on his return he told me he could not hire. I did not oppose him. He attended halibutting at Seven Islands, Dominou. I found this out since. I deny having said I would seize him if he obtained bait, himself or crew. I did not use the term, but it suits the captain or owners to use it, as it serves their meaning to make the report good.

I particularly showed him where, on the chart, he had the right to fish inshore, to wit, at the Magdalen Islands, Cape Ray, &c., as per treaty in my hands then.

I think I was very lenient with him and all American fishermen calling here, knowing their privileges.

I treated them so gentlemanly that I am surprised to hear he made the above inaccurate report to you.

Yours, &c.,

J. B. F. POINCHAUD,  
*Collector of Customs.*

No. 237.

*Sir L. West to Mr. Bayard.*

WASHINGTON, December 7, 1886. (Received December 9.)

SIR: With reference to your notes of the 9th and 18th of August last, I am instructed by the Earl of Iddesleigh to communicate to you the inclosed copy of a dispatch from the governor-general of Canada, with its inclosures, relative to the causes of complaint alleged by the masters of the United States fishing vessels Rattler, Shiloh, and Julia Ellen against Captain Quigley, of the Canadian cruiser Terror.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in note of December 7, 1886.]

*Acting Governor Lord A. G. Russell to Mr. Stanhope.*

HALIFAX, NOVA SCOTIA, October 29, 1886.

SIR: I have the honor to forward herewith a copy of an approved minute of the privy council of Canada, furnishing the report asked for in your dispatch of the 1st September last, respecting the alleged unfriendly treatment of the United States fishing schooner Rattler in being required to report to the collector of customs at Shelburne, Nova Scotia, when seeking that harbor for shelter.

I beg also to draw your attention to the statement of the captain of the Terror, appended to the above order in council, which gives the facts concerning the cases of the Shiloh and Julia Ellen, a report as to which was requested in your dispatch of the 9th ultimo.

I have, &c.,

A. G. RUSSELL,  
*General.*

[Inclosure 2.]

*Report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 23th day of October, 1886.*

The committee of the privy council have had their attention called by a cablegram from the right honorable Mr. Stanhope as to when he may expect answer to dispatch Rattler. The honorable Mr. Bowell, for the minister of marine and fisheries, to whom the papers were referred, submits, for the information of his excellency in

council, that having considered the statements, copies of which are annexed, of Captain Quigley, of the Government cutter Terror, and of the collector of customs at Shelburne, with reference to the subject-matter of the dispatch, he is of opinion that these officers only performed their respective duties in the case of the Rattler, and that no just grounds exist for the complaint put forward in Mr. Bayard's dispatch of a violation of that hospitality which all civilized nations prescribe, or of a gross infraction of treaty stipulations.

The minister states that it does not appear at all certain, from the statements submitted, that this vessel put into Shelburne for a harbor in consequence of stress of weather. It does, however, appear that immediately upon the Rattler coming into port, Captain Quigley sent his chief officer to inform the captain of the Rattler that before sailing he must report his vessel at the custom-house, and left on board the Rattler a guard of two men to see that no supplies were landed or taken on board or men allowed to leave the vessel during her stay in Shelburne Harbor. That at midnight the guard fired a shot as a signal to the cruiser, and the first officer at once again proceeded to the Rattler, and found the sails being hoisted and the anchor weighed preparatory to leaving port. The captain being informed he must comply with the customs regulations and report his vessel, headed her up the harbor. That on the way up she became becalmed, when the first officer of the Terror took the captain of the Rattler in his boat and rowed him to the town, where the collector of customs received his report at the unusual hour of 6 a. m. rather than detain him, and the captain with his vessel proceeded to sea.

The minister observes that under section 25 of the customs act every vessel entering a port in Canada is required to immediately report at the customs, and the strict enforcement of this regulation as regards the United States fishing vessels has become a necessity in view of the illegal trade transactions carried on by the United States fishing vessels when entering Canadian ports under pretext of their treaty privileges.

That under these circumstances, a compliance with the customs act, involving only the report of a vessel, cannot be held to be a hardship or an unfriendly proceeding.

The minister submits, in view of the repeated groundless complaints of being harshly treated that have been made during the present season by captains of United States fishing vessels, and in almost every instance traceable to a refusal or neglect to observe the customs regulations, which, it is proper to state, are enforced upon other vessels as well as those of the United States, herewith a letter written by Captain Blake, of the United States fishing schooner Andrew Burnham, which appeared in the Boston (Massachusetts) Herald of the 7th instant, and also the editorial comments thereon made in a subsequent issue of the paper referred to.

The minister believes that the statements made by Captain Blake are strictly accurate, and as applied to other vessels are substantiated by the weekly boarding reports, received by the fishery department from the different captains engaged in the fisheries protection service. He, the minister, therefore respectfully submits that the reflections of Mr. Secretary Bayard, characterizing the treatment extended to the captain of the Rattler as unwarrantable and unfriendly, is not merited, in view of the facts as stated by Captain Quigley and Collector Attwood.

The committee concur in the report of the acting minister of marine and fisheries and advise that your excellency be moved to transmit a copy of this minute, if approved, to the right honorable Her Majesty's principal secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,  
Clerk, Privy Council.

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[Inclosure 3.]

[Extract from the Boston Herald of October 9, 1886.]

*A Fishing Captain's Experience.*—The letter of Capt. Nathan F. Blake, of the fishing schooner Andrew Burnham, of this city, which we published on Wednesday, would apparently indicate that the Canadian officials have not been disposed to push the requirements of their law quite as vigorously as some of our fishermen have maintained. Captain Blake says he has experienced not the least trouble in his intercourse with the Canadian officials, but that as he treated them courteously, they, on their side, have reciprocated in like terms. There is, undoubtedly, a great deal of bitterness felt on both sides, and probably this bitterness has led both parties to be ungracious in their own conduct, and to exaggerate the wrongs they have endured, hardships frequently due to an unwillingness to observe the requirements of the law as these are now laid down. If all American fishing captains exhibited the same courtesy and moderation that Captain Blake has shown, we imagine that there would be very little trouble in arriving at an equitable and pleasing understanding with Canada.

[Inclosure 4.]

*Captain Quigley to Major Silton.*

SHELBURNE, September 30, 1886.

SIR: I beg to acknowledge the receipt of your letter of the 27th instant, requesting the circumstances connected with the boarding of the vessels *Rattler*, *Julia* and *Ellen*, and *Shiloh*.

In the case of the *Rattler*, she came into Shelburne Harbor on the evening of the 4th August at 6 o'clock. She being at some distance from where I was anchored, and it being too rough to send my boat so far, I fired a musket signal for her to round-to, which she did, and came to an anchor alongside of my vessel.

I then sent the chief officer to board her; he reported she put in for shelter. The captain was then told by the chief officer to report his vessel before he sailed, and that he must not let his men on shore, and that he would leave two men, who are always armed, on board to see that he did not otherwise break the law.

About midnight the captain hoisted his sails to leave port, thereby evading the customs law requiring him to report (for which I refer you to section 25 of the customs act), and disregarding my instructions.

The watchman fired a signal, calling my attention to his act, when I sent the chief officer to tell him he must lower his sails and report his vessel in the morning, otherwise he would likely have his vessel detained. He did so and sailed up in company with the chief officer at 4 o'clock a. m. On the way it fell calm, and the vessel anchored. The chief officer with my boat's crew rowed him up to the custom-house, where he reported at 6 a. m.; and returned, passing out to sea at 8 a. m. The captain was only asked to report his vessel as all others do, but was not disposed to do so.

In the case of the *Julia* and *Ellen*, she came into the harbor of Liverpool on the 9th of August, about 5 p. m. Being some distance from me, I fired a blank musket shot to round her to. When she anchored I boarded her, and the captain reported that he came in for water. I told him to report his vessel in the morning, as it was then after customs hours, and that he must not let his men ashore, and that I would leave two men on his vessel to see that my instructions were carried out, and to see that he did not otherwise break the law.

In the morning, at 8 o'clock, I called for the captain to go to the custom-house and told him his men could go on and take water while he was reporting, so that he would be all ready to sail when he returned, which they did, and he sailed at noon.

In the case of the *Shiloh*, she came into the harbor about 6 p. m. on the 9th of August, at Liverpool, and a signal was fired in her case the same as the others.

When she anchored I boarded her, and the captain reported she was in for water. I told him it was then too late to report at the customs till morning, and that he must not allow his crew on shore; also that I would leave two men on board to see that he did not otherwise break the law, and that my instructions were carried out. In the morning I called for the captain, when taking the *Julia* and *Ellen*'s captain ashore. When there I told him, as I did the other, that his men could go on taking water while he was reporting, so that he could sail when he returned, and not be delayed. This they did not do.

I have reason to know that it was not water this vessel came in for, as several of the crew lived there, and it was for the purpose of letting his men ashore, and not for taking water, that he put in. He afterwards emptied six barrels of water, stating that they were sour, and fooled all day filling them, delaying the time, that he might get his crew on shore. I refused to allow his crew on shore for any other purpose than to take water, after completing which, the weather being fine, I ordered him to sea in the evening.

The signals that were fired were not intended to make them come to quickly, but as a signal for them to either round-to or show their ensign.

After the *Shiloh* sailed the harbor master informed me that she landed two men at the mouth of the harbor, 7 miles down, before she reported, and the evening she sailed she called after dark and picked them up.

In many cases it is an understood thing between the captains and crews to let the men ashore and then make out they have deserted. In all cases where a vessel puts in for shelter the captain reports, and the rest of his crew are not allowed ashore, as the vessel only put in for the privilege of shelter and for no other purpose.

When she puts in for water, after reporting, the captain is allowed to take his boats and the men he requires to procure water, and the rest remain on board, after which he is ordered to sea. When in for repairs he is allowed all the privileges he requires after reporting, and when ready is ordered to sea. In all cases, except when in for repairs, I place men on board to see that the law is not violated, as many of those vessels put into the harbor and make taking water and seeking shelter an excuse either to get men or land them, or to allow them a chance to see their friends, or to get goods



ashore if the vessel is on her way from American ports to the fishing grounds, and have landed men here and at other ports on this coast in my absence.

In one case in this port, a vessel, finding I was in the harbor, let men take a boat and land, she going on her way home to the States. That is why I put men on these vessels, to keep them from breaking the law under cover of night. I might remark here that the collector of customs at Liverpool informed me that the *Shiloh* on her previous voyage remained in port five days after being ordered out, delaying for the purpose of letting the men be with their friends.

Now that they are not allowed all the privileges they once enjoyed, it is an outrage on my part.

These are the facts connected with those vessels which I reported to Captain Scott while in Halifax some time ago. I treat all courteously, but firmly, and find no trouble with any but a few who wish to evade the law.

I am, &c.,

THOMAS QUIGLEY,  
*Government Cruiser Terror.*

[Inclosure 5.]

*Mr. Attwood to the Commissioner of Customs, Ottawa.*

CUSTOM-HOUSE, SHELburne, September 6, 1886.

SIR: I have to acknowledge the receipt of your telegram of the 4th instant relative to schooner *Rattler*, and I wired an answer this morning as requested.

On the morning of the 4th ultimo chief officer of *Terror*, accompanied by Capt. A. F. Cunningham, called at this office. Captain Cunningham reported his vessel inwards as follows, viz: Schooner *Rattler*, of Gloucester, 93 tons register, 16 men, from fishing banks, with 465 barrels mackerel, came in for shelter.

I was afterwards informed by the officer of cutter that they found the schooner the evening before at anchor off Sandy Point, 5 miles down the harbor. Two men from cutter were put on board, and the master required to report at customs in the morning. I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night by hoisting sails, weighing anchor, &c., but was stopped by officer from cutter.

I am, &c.,

W. H. ATTWOOD,  
*Collector.*

[Inclosure 6.]

[Extract from the *Montreal Gazette* of October 13, 1886.]

*A Fisherman's Tale.*—The following letter which appears in the *Boston Herald* conveys a different impression to many statements that have appeared on the subject:

"So much has been written and printed about the experiences of American fishermen in Canadian waters, and the indignities put on them, I wish you would open your columns and give your readers an insight into the other side of the story. I sailed from Boston for North Bay on the 16th June, not knowing just what the cutters would do or how the law would be interpreted. I neared the coast with fear and anxiety. The first land sighted was White Head, and immediately cries came from aloft, 'Cutter in sight, ahead.' I rushed to the deck, found the vessel, which proved to be the *Howlet*, commanded by Captain Lowry, nearing us rapidly. At time of sighting the cutter we were standing inshore. She hoisted her flags to let us know what she was, and we immediately 'about ship,' and put to sea to get out of her way, for fear we might be placed on the prize-list of the captures. We finally headed up for Port Mulgrave, in Causo, expecting to receive rough usage from the authorities, but, to our surprise, found Collector Murray a perfect gentleman, willing to assist me as far as he could without encroaching on the Canadian laws. From there we put in at Port Hawkesbury, and boarded the cutter *Conrad*, and asked the captain for instructions in regard to the three-mile limit, and what privileges, if any, we had. I was answered, in a courteous and hearty way, that he did not have them aboard, but would go ashore in a few moments and get me a printed copy of the regulations, which he did, and assured us that if we followed them we would be unmolested; that he was there to see that the law was not violated, but not to cause unnecessary annoyance. After receiving instructions from the captain, thanks to him, I went to the custom-house and entered my vessel, paying 25 cents. I found a very pleasant gentleman in the collector, who did all in his power to relieve my mind and make us comfortable. *Souris* was our next port of landing, where we also reported and were well treated. From there

we went to Malpeque, where we found another gentleman in the collector. We met the cutter *Howlet* at Cassumpece, and had several interviews with the commander, Captain Lowry, whom I found a quiet, just, and gentlemanly officer. My vessel was one of the fleet ordered out of harbor by him. At that time it was as good a fish day as one could ask for, and the instructions were plain that at such times we had no right to remain in harbor. At no time is there much water to spare on the bar, and it is a common occurrence for vessels to ground in going in or out, and that some did touch was due to ignorance of the channel or carelessness on the part of captains. At the time the order was issued the weather was fair, but before all the fleet could work out through the channel, one of the sudden changes in weather, so much to be dreaded on such a coast, came, and the cutter rescinded the order and the fleet returned. It has been printed in a Boston paper that, owing to being forced to sea by the cutter's orders in bad weather, my schooner, the *Andrew Burnham*, fouled two Englishmen, and narrowly escaped serious damage. If true, it would look like a hardship. It was simply this: In getting under way, in a small and crowded space, finding I would not have room, I dropped our starboard anchor. That not holding, we let go the other, and it brought us up all right; not much in this to point to as an outrage or danger from stress of weather. I believe Captain Lowry to be a man who would carry out all the requirements of the Canadian laws, but I saw nothing in my experience in those waters that could be considered as being arbitrary, or taking a mean advantage of his official authority to annoy any one. Captain Lowry has been a master of vessels for twenty-five years, is a man of high reputation as a seaman, and as good a judge of whether the weather is favorable for a vessel to go to sea as any man who walks a deck, and when he ordered the fleet to sea he went himself, and I know he would not order a vessel to leave harbor if there was any danger of loss of life or property. We reported at Cassumpece, and were treated the same as at all other ports we touched at. If our vessels would attend to reporting at the custom-house, the same as they do in our ports, no trouble would be met with.

"If we had free fish it would give the Canadians some recompense for what our fishermen want, viz, the right to go anywhere and everywhere, use their harbors, ship men, get provisions, land and mend our nets, buy salt and barrels, and ship our catch home by rail or steamer without expense or annoyance, the same as we have heretofore.

"If we had had that privilege this year, myself and vessel would have been \$5,000 better off this season, and all the fishermen in the bay would have been in the same boat with me. I do not say that I am too honest not to fish within the three-mile limit, nor do I believe there is a vessel in the fleet who would not, if the cutter was out of sight. I made two trips to the bay, both of which were very successful, and I lived up to the requirements of the law as well as I knew how, and did not find them obnoxious or to interfere with my success, and everywhere I went I was courteously treated by the officials, especially so by both the cutters. Should it be a bay year next season, I hope to meet them again. Those who openly preached that they would go where they pleased, do what they wanted to in spite of law or cutters, shipped men, smuggled, or openly fished inside the limit, and indulged in the satisfaction of damning the cutter, the captain, the Government, and everything else when they knew they could do it with impunity, and that the men they were talking to could not resist it by word or blow, were looked after sharp, and were not extended the courtesy that was shown so many of us.

"In the interest of fair play, I could not help writing you and asking you to give this to your readers, if not taking up too much of your valuable space.

"Very respectfully,

"NATHAN F. BLAKE,

*"Captain Schooner Andrew Burnham, of Boston."*

"BOSTON, October 6, 1886."

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No. 238.

*Sir L. West to Mr. Bayard.*

WASHINGTON, December 7, 1886. (Received December 9.)

SIR: I am instructed by the Earl of Iddesleigh to communicate to you the inclosed copy of a dispatch, with its inclosures, from the officer administering the Government of Canada, expressing the regret of the Dominion Government at the action of the captain of the Canadian cut-

ter Terror in lowering the United States flag from the United States fishing schooner Marion Grimes, of Gloucester, Mass., while that vessel was under detention at Shelburne, Nova Scotia.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in note of December 7, 1886.]

*Acting Governor Lord A. G. Russell to Mr. Stanhope.*

HALIFAX, NOVA SCOTIA, October 27, 1886.

SIR: I have the honor to transmit herewith a copy of an approved minute of the privy council of Canada, expressing the regret of my Government at the action of the captain of the Canadian cutter Terror in lowering the United States flag from the United States fishing schooner Marion Grimes, of Gloucester, Mass., while that vessel was under detention at Shelburne, Nova Scotia, by the collector of customs at that port for an infraction of the customs regulations.

I have communicated a copy of this order in council to Her Majesty's minister at Washington.

I have, &c.,

A. G. RUSSELL,  
General.

[Inclosure 2.]

*Report of a committee of the honorable the privy council for Canada, approved by his excellency the administrator of the Government in council on the 26th October, 1886.*

On a report, dated the 14th October, 1886, from the Hon. Mackenzie Bowell, for the minister of marine and fisheries, stating that on Monday, the 11th October instant, the United States fishing schooner Marion Grimes, of Gloucester, Mass., was under detention at Shelburne, Nova Scotia, by the collector of customs at that port for an infraction of the customs regulations; that while so detained, and under the surveillance of the Canadian Government cutter Terror, the captain of the Marion Grimes hoisted the United States flag.

The minister further states that it appears that Captain Quigley, of the Terror, considered such act as an intimation that there was an intention to rescue the vessel, and requested Captain Landry to take the flag down. This request was complied with. An hour later, however, the flag was again hoisted, and on Captain Landry being asked if his vessel had been released, and replying that she had not, Captain Quigley again requested that the flag be lowered. This was refused, when Captain Quigley himself lowered the flag, acting under the belief that while the Marion Grimes was in possession of the customs authorities, and until her case had been adjudicated upon, the vessel had no right to fly the United States flag.

The minister regrets that he should have acted with undue zeal, although Captain Quigley may have been technically within his right while the vessel was in the custody of the law.

The committee advise that your excellency be moved to forward a copy of this minute, if approved, to the right honorable the secretary of state for the colonies, and to Her Majesty's minister at Washington, expressing the regret of the Canadian Government at the occurrence.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,  
Clerk, Privy Council.



SELECTIONS FROM CORRESPONDENCE OF THE DEPARTMENT OF STATE WITH PARTIES INTERESTED IN AMERICAN FISHING VESSELS MOLESTED IN CANADIAN WATERS.

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No. 239.

*Messrs. Cushing and McKenney to Mr. Bayard.*

[Telegram.]

PORTLAND, ME., April 9. [Received April 9.]

Having several fishing vessels ready for the Banks, we desire to know if they can call at Canadian ports for men and be protected in so doing.

CUSHING & MCKENNEY.

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No. 240.

*Mr. Bayard to Messrs. Cushing and McKenney.*

[Telegram.]

STATE DEPARTMENT, April 9, 1886.

The question of the right of American vessels engaged in fishing on the high seas to enter Canadian ports for the purpose of shipping crews may possibly involve construction of treaty with Great Britain. I expect to attain such an understanding as will relieve our fishermen from all doubts or risk in the exercise of the ordinary commercial privileges of friendly ports, to which, under existing laws of both countries, I consider their citizens to be mutually entitled free from molestation.

T. F. BAYARD.

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No. 241.

*Mr. Woodbury to Mr. Bayard.*

BOSTON May 21, 1886. [Received May 24.]

SIR: In behalf of Jesse Lewis, esq., I inclose a statement by him and the crew of the D. J. Adams of the damages inuring to them by the seizure of that schooner by the British authorities near the Gut of Annapolis, and her detention at Digby, for an alleged violation of the

convention of 1818 between the United States and Great Britain. Mr. Lewis employed counsel at Halifax, who has informed him that there are "two suits pending, one *in rem*, under section 2, imperial act 1819, for alleged violation of the treaty 1818, act of 1819, and the Canadian fishery acts of 1868, 1870, 1871; no proceedings taken yet for violation of customs act other than seizure and detention by customs officer at Digby. The charge in this respect, I believe, is under sections 25 and 29, Canada customs act, chap. 12, 1883. The other suit against captain personally, and is for a penalty under section 4, imperial act, 1819."

The information I have from the master is that the Adams was arrested some miles from the town of Digby and ordered into the Lansdowne by an armed boat, she being at that time beating out of the gut against a head tide from an anchorage five or six miles up the basin beyond Digby, and was in the possession of the captors from the Lansdowne before she changed her course, and headed by their command into Digby. No seizure was made by any custom-house officer whilst the master controlled the vessel, and the owner and master are in profound ignorance of any such proceeding, or of the grounds, except the telegram which I cite above, and his counsel in Halifax has not yet been able to be more definite. Mr. Lewis, through his friends, has furnished security for costs to enable him to interpose a defense in the admiralty court against the libel *in rem*, based on the treaty of 1818. His vessel had been lately extensively repaired, and he has no means to bond her. Indeed, as it is in the power of the authorities there to seize her over and over, it would be impossible to know in what amount he would need to find security before he could get the vessel out of the hands of the provincial authorities—out of their local jurisdiction.

The only cause of seizure avowed is that the master "bought bait" somewhere along the coast and received it on the vessel. The undersigned has not discovered any statute forbidding a master to buy bait or anything else in a British Canadian port, nor one that subjects a vessel of the United States to forfeiture for exporting bait from such ports. It is supposed the provincials assert the doctrine that trading in their ports either is a violation of the treaty of 1818 or of the act of 1819. It cannot be that a private person can in the inferior courts of a foreign country undertake to defend the American construction of that treaty against the suit of the Crown, who alone is imperative in its courts of admiralty as to matters of treaty or maritime privilege; nor can it be that in such inferior courts the consonance of the act of 1819, with the principles of the treaty of 1818, or the law of nations, can be put in issue by the citizen of the United States defending his property; it is only the United States in its sovereignty that can arraign before the sovereignty of Great Britain the question whether the act of 1819 conflicts with or impairs the American right under the convention or the law of nations. My client would not humiliate his native land so much as to ask its Executive to appear by counsel before a local inferior tribunal of the other party to the convention of 1818 and submit to its decision any question affecting the sovereignty of the contracts it had made with Great Britain. It seems, then, to my perhaps imperfect understanding of the principles of national law, that my client must rely upon his own Government for defense and redress for the outrage upon his property, and he requests the intervention of the Executive as the only adequate protection he can have against the aggressive spoliations of his property by subordinate British officials. It is proper also that I should invite your attention to the evident fact that the *cause* put forth is the alleged shortcoming of the United States in not living up to its con-

vention, but that the incident is the exercise over the persons and property of private citizens of the United States of an absolute control to forfeit the one and punish the other without the consent of the United States, and without even this country having agreed to the interpretations shadowed or expressed by the imperial act of 1819.

I have, &c.,

CHAS. LEVI WOODBURY,  
*Counsel for Jesse Lewis, at Boston.*

[Inclosure 1 in Mr. Woodbury's letter of May 21, 1886.]

*Deposition of crew of the David J. Adams.*

*In re schooner David J. Adams, of Gloucester.*

We, the undersigned, on oath declare and say that we were members of the crew of the fishing schooner David J. Adams, belonging to Mr. Jesse Lewis, of Gloucester, Essex County, Massachusetts, when she was seized at Digby, N. S., May 7, 1886, by the Canadian Government; that we had on board said schooner David J. Adams at the time of said seizure as follows:

|                                         |          |
|-----------------------------------------|----------|
| 5,000 pounds of cod, at 2 cents.....    | \$100 00 |
| 500 pounds of halibut, at 10 cents..... | 50 00    |
| 11½ barrels bait.....                   | 12 50    |
| 8 tons ice.....                         | 20 00    |
| Total.....                              | 182 50   |

of the value of \$182.50; that one-half of the same belonged to us, of the value of \$91.25. That we have lost by reason of said seizure, one additional trip, making two trips lost to each of us, of the value of \$25 each trip, or \$50 for the two trips.

Witness our hands at Gloucester, May 18, 1886.

ALDON KINNEY, *Master.*  
ISAIAH ROBERTS.  
JAMES SWANESBURG.  
ELROY PRIOR.  
JOHN BEATON.  
BATH MAEN.  
E. D. SIMMONS.

JOSEPH BOUCHER.  
JOHN BROWN.  
FRANK ARNESEN.  
JOSEPH HANLEY.  
FRED FISCHER.  
SAMUEL HOOPER.  
CALVIN COOK.

STATE OF MASSACHUSETTS, COUNTY OF ESSEX,

*Office of the Police Court of Gloucester, Mass.:*

I, Sumner D. York, clerk of the police court of Gloucester, the same being a court of record, in the county of Essex, State of Massachusetts, having a seal, do certify that William W. French, esq., was at the date of the certificate of the annexed instrument in writing a justice of the peace in and for said county duly authorized; that I am well acquainted with the handwriting of such officer, and verily believe that the signature to said certificate is genuine; and that the annexed instrument is executed according to the laws of this State.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 18th day of May, A. D. 1886.

[L. s.]

SUMNER D. YORK,  
*Clerk.*

COMMONWEALTH OF MASSACHUSETTS,

*Essex, ss:*

GLOUCESTER, May 18, 1886.

Personally appeared the said Aldon Kinney, Isaiah Roberts, James Swanesburg, Elroy Prior, John Beaton, E. D. Simmons, Joseph Boucher, John Brown, Frank Arnesen, Joseph Hanley, Fred Fischer, Samuel Hooper, and on oath declared the foregoing statement by them subscribed to be true.

Before me

WILLIAM W. FRENCH,  
*Justice of the Peace*



[Inclosure 2 in Mr. Woodbury's letter of May 21, 1886.]

*Affidavit of Capt. Jesse Lewis, of the David J. Adams.*

I, Jesse Lewis, of Gloucester, Essex County, and State of Massachusetts, declare and say that I am the sole owner of the fishing schooner David J. Adams, seized by the Canadian Government May 7, 1886, at Digby, N. S.; that the said schooner is worth \$5,000; that the provisions on board at the time of seizure were worth \$200; that there was on board 40 tons ballast, worth \$80; that the ice-house platform and gurry pens on board were worth \$150; that the 35 hogshheads of salt on board were worth \$60; that the stores and furniture for same on board were worth \$125; that the boxes and fishing knives and forks were worth \$25; that the side lanterns, binnacle lights, and signal torches were worth \$50; that 2 water-casks, 5 barrels, and 15 hiver barrels were worth \$25; that one dory and oars were worth \$15; that the fishing-gear, 6 dozen lines, leads, snoods, and gear were worth \$75; that the medicine-chest was worth \$20; that all the above-named goods were on board the Adams at the time of seizure aforesaid; that by reason of said seizure I have lost the profits of said voyage, of the value of \$650; that I claim as loss, interest from the date of the seizure, May 7, 1886, on the vessel and outfit, and interest on the loss of the voyage from June 7, 1886; that I have paid J. H. Murray, United States consul, on account of the crew of said Adams, \$202.96; that the estimated expenses of the admiralty court are \$240; that my traveling expenses (advice and services incurred) are \$120; the probable legal services to be paid for are estimated at \$1,000.

I was born in Kittery, Me., and have lived in Gloucester, Mass., forty years; that there was on board 1 compass, worth \$40.

JESSE LEWIS.

COMMONWEALTH OF MASSACHUSETTS,  
*Essex, ss :*

GLoucester, May 18, 1886.

Personally appeared the above-named Jesse Lewis, and on oath declared the above statement by him subscribed to be true.

Before me.

WILLIAM W. FRENCH,  
*Justice of the Peace.*

[Inclosure 3 in Mr. Woodbury's letter of May 21, 1886.]

*Depositions showing nationality of the crew of the David J. Adams.*

GLoucester, May 18, 1886.

I declare and say that I am a native of Gloucester, Mass.

ALDON KINNEY.

I declare and say that I am a citizen of the United States; that I have fished from said country for the past twenty years.

ISAIAH ROBERTS.

I declare and say that I am a native of Nova Scotia, and have been fishing from American ports for two years.

JAMES SWANESBURG.

I declare and say that I am a native of Breme, Me.

ELROY PRIOR.

I declare and say that I am a native of Bath, Me.

JOHN BEATON.

I declare and say that I am a native of Breme, Me.

E. D. SIMMONS.

I declare and say that I am a native of Booth Bay, Me.

JOSEPH BOUCHIER.

I declare that I am a native of St. George, N. B.; that I have fished from American ports during the past eight years.

JOHN BROWN.

I declare that I am a native of Norway, and have fished from American ports for the last seven or eight years.

FRANK ARNESEN.

I declare and say that I am a native of St. George, N. B.; that I have fished from American ports for the last seven years.

JOSEPH HENLEY.

I say that I am a native of Germany; that I have fished from American ports for the last five years.

FRED FISCHER.

I declare that I am a native of St. George, N. B.; that I have fished from American ports for the last seven years.

SAMUEL HOOPER.

COMMONWEALTH OF MASSACHUSETTS,

*Essex, ss :*

GLOUCESTER, *May 18, 1886.*

Severally subscribed and sworn to before me.

WILLIAM W. FRENCH,  
*Justice of the Peace.*

I declare and say that I was born in Maine, and am a citizen of the United States.

CALVIN COOK.

No. 242.

*Mr. Woodbury to Mr. Bayard.*

BOSTON, *May 22, 1886.* [Received May 24.]

SIR: In the matter of Mr. Lewis's statement of damages incurred by the seizure of the D. J. Adams, I yesterday transmitted some papers sent me from Gloucester, perhaps without as mature consideration as they should have received. Mr. Lewis's claim to the fish caught, as I take the law to be, is that of owner, but the law makes his ownership a trust to divide among the sharesmen their share of the net proceeds of the fish when received by him.

The master and crew appear, claiming their loss by the breaking up of the trip. This is their own adventure, and I must not be considered as their counsel in this matter, nor as in any way sanctioning their statement as to their citizenship, residence, &c. I have to-day from Gloucester the official fact that the custom-house at Digby have seized under the sections referred to in the telegram quoted in my last, together with a reference to sections which make this seizure for a \$400-penalty a lien on the vessel.

I learn Mr. Meagher, the counsel of Mr. Lewis at Halifax, is in town, and hope to see him within a day or two for consultation, and will advise the Department of our views as to that; meanwhile we are hardly ripe for any step of reclamation.

I beg you to believe that Mr. Lewis and myself wish to conform in our action to the wishes and policy of the Department, and to rely on its generous efforts to protect his property.

I am, &c.,

CHAS. LEVI WOODBURY,  
*Counsel at Boston for Mr. Lewis.*

No. 243.

*Mr. Steele to Mr. Bayard.*

GLOUCESTER, May 22, 1886. [Received May 24.]

SIR: Learning by telegraphic news that your consideration of the provincial seizures has been somewhat delayed by the want of documentary evidence, I inclose affidavits this morning received from Eastport relative to the schooner Jennie and Julia of that port. They were sent me by a reputable merchant. I am in no way interested in the vessel, nor do I know who are her owners. If there is any service which the members of the American Fishery Union or its officers can render that would be of use in your efforts to obtain redress from Canadian annoyances, they will very cheerfully be at your service.

I am, &amp;c.,

GEO. STEELE,  
*President of the American Fishery Union.*

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[Inclosure 1.]

*Statement of Capt. William H. Farris, master of schooner Jennie and Julia, of Eastport.*

I, William H. Farris, master of the schooner Jennie and Julia, a vessel of the United States hailing from Eastport, Me., cleared from Eastport on 17th inst., taking out a register, crew list and all papers required for a foreign voyage. I left Eastport at about 4 o'clock, p. m., arriving at Digby, Nova Scotia, at about 10 o'clock of the forenoon of the 18th inst., dropping anchor in Digby Harbor. I immediately went ashore and reported to United States Consular Agent Stewart, and delivered all my papers to him. After looking over the papers Mr. Stewart informed me that he did not think he could do anything for me, except if my vessel was seized or cast away, he could send myself and crew home. He further said that he did not know whether he was reappointed under this new administration or not.

I then took my papers from the consul and went to the custom-house and found the door locked. Turning from the door I met the collector, Veits, and his son coming to the office. He asked if I was Captain Farris. I answered that I was. He said, "What are you here for—bait?" I answered, "I am here for fresh herring." He said, "You can't have any." I then asked him to look at my papers. He examined them and asked what I had this kind of a register for. I answered, "After stating to the collector at Eastport what I wanted to do, he gave me these papers as the proper ones." The collector, Mr. Veits, then said, "You can't buy fresh herring here for any purpose."

I said to him that I had two smoke-houses at home empty, and I would like to buy fresh herring to fill them up. He answered, "You cannot buy herring for any purpose."

I then said to him, "If I can't buy herring I will take my papers and go home"; and the collector said, "No; wait till afternoon and then I will let you know."

At about 3 o'clock I went to the custom-house again, when the collector told me that he had telegraphed to headquarters, but had received no answer.

About 7 o'clock p. m. the collector informed me that he could allow me to enter my vessel but could not give a clearance. I then said to him, "If I buy one barrel of fresh herring I am liable to seizure" and the collector answered, "Yes."

I then went on board my vessel and started for home.

W. H. FARRIS,  
*Master Schooner Jennie and Julia.*

Subscribed and sworn to this 2d day of May, 1886.  
 Before me.

[L. S.]

GEORGE H. HAYES,  
*Notary Public.*



[Inclosure 2.]

*Statement of Arthur Farris, mate to the schooner Jennie and Julia.*

The Jennie and Julia sailed from Eastport, May 17, for Digby, N. S., arriving there about 10 o'clock of the morning of the 18th. Immediately after dropping anchor, the captain went on shore. About half an hour after a steam tug came alongside, and a man on board, whom I afterwards learned was the collector of the port of Digby, took out a note-book and wrote something in it; then threw a line aboard, to which I paid no attention. He then asked, "What are you doing here?" I answered, "We are here to buy herring." He then asked me, if I did not know we were violating the law. I answered, "No, I think not." He then asked me if I did not know we were liable to seizure. I then told him that we were under register, and had cleared for Digby, to return to Eastport when we left Digby. He then asked if I was captain. I told him no, the captain had gone ashore to the custom-house. He then asked me what we were doing with fishing-gear on deck. I told him to ask the captain and he would tell him. The collector then said, "I warn you not to buy herring."

ARTHUR M. FARRIS.

Subscribed and sworn to before me this 20th day of May, 1886.

[L. s.]

GEORGE H. HAYES,  
*Notary Public.*


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I, George S. Farris, state that I am one of the crew of the schooner Jennie and Julia, and was present during the conversation between the collector of the port of Digby and the mate of the Jennie and Julia, and state that the foregoing affidavit of the mate is correct.

GEORGE S. FARRIS.

Subscribed and sworn to before me this 20th day of May, 1886.

[L. s.]

GEORGE H. HAYES,  
*Notary Public.*

No. 244.

*Mr. Bayard to Mr. Steele.*DEPARTMENT OF STATE,  
Washington, May 26, 1886.

SIR: Your letter of the 22d instant has been received, and the affidavits sent in the matter of the application of the Jennie and Julia, of Eastport, Me., to purchase fresh herring at Digby, Nova Scotia, will be placed on file and duly considered in connection with the questions involved.

This Department will be at all times most willing to receive reports from citizens of the United States respecting any unusual treatment they may encounter abroad, and duly to investigate and endeavor to remedy any alleged diminution of their lawful rights.

I am, sir, &amp;c.,

T. F. BAYARD.

No. 245.

*Mr. William H. Jordan to Mr. Bayard.*

GLOUCESTER, MASS., June 4, 1886. [Received June 7.]

SIR: We see by recent dispatches from Halifax that the Canadian Government propose seizing schooner James A. Garfield whenever they have an opportunity, for having purchased bait and ice within their jurisdiction as they allege. The captain of the Garfield denies their charge of purchasing bait and ice, but that will make no difference about the seizure of the vessel, and if seized will be condemned whether guilty or not, judging from our past experience, as we had a vessel seized some years since (schooner A. I. Franklin) and condemned for alleged violation of their laws, and we had *absolute knowledge* that their charge was not correct in whole or in part. What we want to know is this: Can we be sustained by our Government in resisting capture to the best of our ability, where we are sure we have not violated their laws, and so instruct our captains?

We have another case, occurring about four weeks ago. The captain of schooner Annie H. Jordan wished to purchase bait at St. Andrews, New Brunswick. He had a permit to touch and trade, but being afraid of trouble he anchored the vessel outside the three-mile limit and went ashore in a dory to enter vessel at custom-house. The collector refused to allow him to enter his vessel, and ordered him to leave forthwith, saying they would have nothing to do with his vessel.

Yours, respectfully,

WM. H. JORDAN,  
*Secretary American Fishing Union*  
*(Firm of Rowe & Jordan).*

No. 246.

*Mr. Steele to Mr. Bayard.*

GLOUCESTER, MASS., June 5, 1886. [Received June 7.]

SIR: I inclose the master of the schooner Alice M. Jordan's affidavit for your consideration.

Yours, truly, &amp;c.,

GEO. STEELE,  
*President American Fishery Union.*

[Inclosure 1.]

UNITED STATES OF AMERICA.

*District of Massachusetts:*

I, Alexander Hains, of Gloucester, State of Massachusetts, on my oath do say that I was master of the schooner Annie M. Jordan, enrolled and licensed at Gloucester, Mass, when she sailed on a fishing voyage for cod and halibut on the 26th day of April, A. D. 1886, and further say that before I sailed I applied at the custom-house for and received a permit to touch and trade at foreign ports during my said voyage.

I further say that on the 4th day of May, 1886, I arrived and anchored at St. Andrews, New Brunswick, in the Dominion of Canada, and went ashore to the custom-

house at that port, where I reported my arrival; applied to the collector, or person representing the collector, to enter my vessel for purposes of purchasing and exporting certain merchandise therein.

Said person refused to receive my papers and admit me to an entry, saying my papers were of no account. I asked why, and stated I had a permit to touch and trade from the United States authorities at Gloucester.

It was replied to me by said custom-house officer that it made no difference; my vessel had no business in these waters, and that she would be seized by the Canadian authorities if she was here when the cutter came into port. Being thus refused an entry, I returned to my vessel and left the port.

I arrived in Gloucester, Mass., May 28, 1886. I further say that damage to my voyage and loss has accrued to the owners of said vessel, Rowe & Jordan, of Gloucester, from the refusal to admit her to an entry, and I further say that I anchored in said port and reported in good faith for purpose of trade, under the belief that the laws of Great Britain gave to vessels of the United States all the privilege of trade and export from British North America which British vessels enjoyed.

ALEXANDER HAINS,  
*Master of Schooner Annie M. Jordan.*

MASSACHUSETTS, *Essex*, ss :

JUNE 5, 1886.

Personally appeared Alexander Hains, and made oath to the truth of the above statement.

Before me.

[SEAL.]

AARON PARSONS,  
*Notary Public.*

[Inclosure 2.]

*Permit or license to touch and trade.*

UNITED STATES OF AMERICA, DISTRICT OF GLOUCESTER,  
*Port of Gloucester, April 26, 1886.*

Permission is hereby granted to A. Hains, master of the schooner named the Annie M. Jordan, of Gloucester, burden 91 $\frac{3}{10}$  tons, which schooner was licensed for carrying on the fishery by D. S. Presson, collector of the district of Gloucester, in the State of Massachusetts, on the 4th day of January, 1886, to touch and trade at any foreign port or place during her voyage presently to be made.

Given under my hand and seal the day and year above mentioned.

D. S. PRESSON,  
*Collector, Naval Officer.*

Surrendered June 1, 1886.

No. 247.

*Mr. Steele to Mr. Bayard..*

GLOUCESTER, MASS., *June 5, 1886.* [Received June 7.]

SIR: I take the liberty to write to you in regard to the present relation of American fisheries with England and her provinces.

I first desire to call attention to the reciprocity treaty of 1854, during which the Government paid fisherman a bounty of \$4 per ton, which was an assistance to us, and helped in part offset the remittance of duties on foreign fish during that period.

During the treaty of Washington, which expired by limitation, we received no bounty from our Government, that having been abolished in 1866, and we felt the effect of the second reciprocity treaty more than the one covering the years 1854 to 1866 inclusive.



We have no occasion to regret the action of the Government in allowing the treaty of Washington to expire by limitation, and we are also pleased at the action of the House of Representatives in granting the President the power to deny to foreign nations the same commercial rights denied us in their ports.

If it is the pleasure of the President to use that power, I think it would meet the approval of every person interested in the fishing business, both the property owner and the individual fisherman, but if this power to pass retaliatory measures the President does not see fit to use, we earnestly beg that the settlement of so important a matter will not be left with ministers or commissioners to arbitrate on our existing fishery rights or make new treaty definitions, because we have seen that diplomacy is untrained in commercial affairs, and incapable of appreciating the business and commercial effects following contracts concerning them, and we know that long or permanent contracts on such subjects are a mere gambling with interests where consequences can rarely be foreseen at the time they are made.

We have an invincible dread that in such negotiations in the future as in the past our interests would be sacrificed to Canadian interests.

We think the powers Congress has delegated to the President are enough for the protection of our right to trade with Canadian ports, if he use them with his usual firmness and sense of justice. Should he be reluctant to do this, still we do not desire to obtain privileges of trade by another treaty. We prefer to accept the present situation, even if more seizures and more exclusion from Canadian ports are practiced on our vessels touching there for trade. We had better lose twenty vessels or even fifty, than that we should enter into another such treaty with England.

We know full well that Canada would use any and all means, no matter how barbarous, to drive our Government into a reciprocity treaty again, and we think this is the object of her present conduct.

We thank you for furnishing counsel to look after the individual interests at the trial of these cases in the admiralty court at Halifax, as no individual ought to be compelled to bear the burden of cases of this nature in foreign courts.

I desire to bring to your attention that the mackerel fleet of the United States will sail from about the 15th of June to July 1, for the eastward; a few have already gone.

The Canadians have a fleet of cruisers as they say to guard their three-mile limit from the intrusion of our craft, but as we think to prey on our vessels without regard to the distance of three miles from the shores. Owners here instruct their masters to keep out of the three-mile limit in good faith. It is American property that is at risk and the American right on the high seas, outside of the three-mile question, that is to be guarded from encroachment.

The "men-of-war" of the United States should be at hand to protect our flag, our citizens and their property.

What are the spoils derived from the confiscation and dividing of the prey of half a dozen bait-buying smacks entering their ports, compared to the chances of capture among three to five hundred sail of mackerelmen who may lawfully fish within a fathom outside of the three-mile limit, and on whom Canadian law devolves the burden of proof, that where they lay was more than three miles? Whilst by the same law the seizure is primary proof that the prize was within the three-mile limit. If a hundred sail were in sight at the seizure, what means has the arrested master to ascertain their names to obtain their testimony

in a prize court? We are content to live by the three-mile limit honestly construed; but the Government should protect us in our lawful side of it, and secure to us an honest construction of the treaty clause.

This extract from a letter in the Boston Herald of June 4, 1886, written from Cape Breton, shows the animus of the provincials:

Three American mackerel seiners passed through the straits this morning bound for North Bay. They will be closely watched by the Howlett and customs officers. The moiety on a seizure would amount to at least \$2,000, and every person in authority on the coast lies awake nights thinking how he can make an arrest of some unlucky Yankee fisherman. If sufficient ground is given there is not a doubt but what seizures will be made, as the bounty is a very substantial incentive outside of the credit to be gained therefrom. Yankees will do well to be cautious and avoid "the appearance of evil."

If a duty of 1 cent per pound could be put upon fresh and salt fish the Canadians would stop their overt acts and be brought to a realizing sense of the commercial rights of nations, quicker than any other way.

The fact is Canada has nothing whatever that she can compensate us with, for the privilege of the markets of the United States free for her fish.

Canada is fighting from business motives and nothing more, and if she succeeds in bullying the United States into any agreement by which she can bring in her fish free, said fish untaxed and bounty-fed with fishing grounds in close proximity, while we are heavily taxed, it would not take more than ten or twelve years to wipe out the Atlantic fisheries.

As well to allow English men-of-war to enter our ports and destroy our vessels and other property, as for us to see the humiliating spectacle of our fishing industry passing under the control of the English flag, through the default of our Government, an industry that all other Governments afford ample protection.

My own personal experience as owner of twelve fishing vessels; an experience in this business, on this coast, in the Gulf of St. Lawrence, on the Newfoundland coast, and on the Grand and Western Banks, directly and indirectly since the year 1848, proves to me conclusively that in what I have here written I voice the sentiments of every man in the fishing business, whether owner or fisherman.

I am, respected sir, yours, very respectfully,

GEO. STEELE.

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No. 248.

*Mr. Bayard to Mr. Steele.*

DEPARTMENT OF STATE,  
Washington, June 7, 1886.

SIR: I have to-day received your letter dated the 5th instant, accompanied by the affidavit of the master of the fishing schooner Alice M. Jordan, of Gloucester Mass., alleging the refusal by the collector of customs at the port of St. Andrews, New Brunswick, to allow the entry of said vessel, duly documented as a fishing vessel, with permission to touch and trade at any foreign port or place during her voyage, the object of such entry, as stated by the master of the schooner, being the purchase of certain merchandise.

Although not disclosed by the affidavits, I suppose the merchandise in question was fresh fish for use as bait in deep-sea fishing.

I have made instant representation, accompanied by earnest protest, to the British minister at this capital, of this unlawful withholding of commercial rights from an American vessel and her owners, and of the loss and damage thereby sustained, for which, as I have informed him, the Government of Great Britain will be held responsible.

I have, &c.,

T. F. BAYARD.

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No. 249.

*Mr. Bayard to Mr. Steele.*

DEPARTMENT OF STATE,  
Washington, June 8, 1886.

SIR: I have received your letter of June 5, giving at length your views upon the present "relation of American fisheries with England and her provinces."

Your discussion of the situation is comprehensive, and will receive due consideration.

The chief remedy you propose—the levy of a tariff duty of 1 cent per pound upon fresh and salt fish—is, of course, solely for the consideration of Congress.

The object and earnest endeavor of the Executive will be to secure American citizens the full enjoyment of all the rights under treaties and law without molestation, and no effort to that end has been or will be lacking on the part of those charged with the administration of the laws.

I am, &c.,

T. F. BAYARD.

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No. 250.

*Mr. Bayard to Mr. Jordan.*

DEPARTMENT OF STATE,  
Washington, June 8, 1886.

SIR: Your letter of the 4th instant was received yesterday, and that portion of it which relates to the refusal of the collector of the port of St. Andrews, New Brunswick, to sell bait to the captain of the Annie H. Jordan has already been made the subject of a letter from this Department to George Steele, esq., president of the American Fishery Union, of which you sign yourself the secretary.

It is impossible to meet all the rumors of proposed unfriendly action by the Canadian authorities towards the fishing vessels of the United States. Each case will be properly treated as it actually occurs.

But it is very clear that as the United States expect and require implicit obedience to their own laws within their jurisdiction, and severely reprehend and punish forcible resistance by individuals to their execu-



tion, in like manner they expect their citizens and counsel them, when within foreign jurisdiction, to obey strictly the laws and regulations there in force, and to abstain from any resort to force as a remedy for supposed injustice or irregularity.

It is the purpose and intention of those charged with the execution of the law of the United States to see that law-abiding American citizens are secure in the enjoyment of their rights everywhere on land and sea, and when such rights are invaded under public authority to obtain redress.

I am, &c.,

T. F. BAYARD.

No. 251.

*Capt. Jesse Lewis to Mr. Bayard.*

GLOUCESTER, June 26, 1886. [Received June 28.]

DEAR SIR: I write for information as regards the seizure of my vessel, the schooner David J. Adams, by Canadians. What I want to know is what is to be done, whether my vessel is condemned as my loss, or if there is any way that we could demand a trial to see just what the consequences will be, or why I cannot bond my vessel as I want here to use. I am a poor man, and that vessel is my only support. Now, I think it is injustice to me as matters now stand. Please answer this letter soon, as I want something done about it.

Yours, very respectfully,

JESSE LEWIS.

No. 252.

*Mr. Bayard to Capt. Jesse Lewis.*

DEPARTMENT OF STATE,  
Washington, June 30, 1886.

SIR: I have your letter dated the 26th instant, stating the severe loss to you occasioned by the summary seizure by the Canadian authorities, in Annapolis Basin, Nova Scotia, of your fishing schooner, the David J. Adams, which, as you say, is all the property you possess, and constitutes your "only support."

It is proper that I should inform you that the demand was made upon the Government of Great Britain for the release of the vessel, coupled with a notification that that Government would be held answerable for all loss and damage caused by her seizure and detention.

Your case commands my sincere sympathy, and ever since it was brought to my knowledge has had the constant consideration of this Department and of the consular officers of the United States in the Dominion of Canada.

Mr. William L. Putnam, of Portland, Me., in conjunction with Mr. George W. Biddle, of Philadelphia, has been engaged by this Government as its counsel in respect of its rights and duties which may be brought in question by reason of the seizure of your vessel.

If you will communicate with Mr. Putnam he will no doubt give you all information in his power in relation to the laws under which your property was so seized, and suggest what steps should be taken to protect your private interest in the premises.

Moreover, I suggest that you should carefully secure evidence of all the facts connected with the presence of your vessel in Annapolis Basin, and of the absence of any unlawful act or intent on the part of her master, crew, or owner, as well as proof of the actual loss and injury sustained by you by reason of this harsh, and, as I believe, wholly unwarranted action by the Canadian officials; such evidence to be obtained and preserved as the basis of claims for your remuneration.

More than one year ago I sought to protect our citizens engaged in fishing from the results which might attend any possible misunderstanding between the Governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America, after the termination of the fishery articles of the treaty of Washington in June last.

It seemed to me then and seems to me now very hard that differences of opinion between the two Governments should cause loss to the honest citizens whose line of obedience might be thus rendered vague and uncertain, and their property be brought into jeopardy.

Influenced by this feeling, I procured a temporary arrangement which secured our fishermen full enjoyment of all the Canadian fisheries, free from molestation during a period which would permit discussion of a just international settlement of the whole fishery question. But other counsels prevailed, and my efforts further to protect the fishermen from such trouble as you now suffer were unavailing.

To secure for them full protection in the enjoyment of all their just rights and privileges is still my earnest intent and object, and for all losses to which they may be unlawfully subjected at the hands of the authorities of foreign Governments I shall seek and expect to obtain full redress.

I regret exceedingly the disturbance in their long-customary pursuits and the serious loss and inconvenience attendant upon a disputed construction of laws and treaties by two separate Governments; and I trust that I shall soon be enabled to secure such a clear and comprehensive declaration of agreement between those charged with the administration of the two Governments as will define the line of their rights and secure from molestation those American fishermen who, obeying the injunctions of their Government respecting subordination to the laws of foreign Governments, keep within the laws of their own country.

Reparation for all losses, unlawfully caused by foreign authority, will be made the subject of international presentation and demand.

I am, &c.,

T. F. BAYARD.

No. 253.

*Mr. Willard to Mr. Bayard.*

[Telegram.]

PORTLAND, ME., July 3, 1886. [Received July 4.]

We have received the following dispatch from Shelburne, Nova Scotia, to-day, viz:

Cushing boarded last night 8 miles from custom-house. Brought here seized to-day. Charge, seeking bait and not reporting at custom-house. Have not bought anything. Wire instructions.

C. B. JEWETT.

She left here last Tuesday with the understanding you had settled the right of our vessels to buy bait. How long are we to be tormented in this kind of style? If it is to continue long we should prefer to haul our vessels up. It seems to us about time the President issued his non-intercourse proclamation and settled this thing one way or the other.

Please instruct us what to do under the circumstances, as she is a valuable vessel.

E. G. WILLARD.

No. 254.

*Messrs. Cushing and McKenney to Mr. Bayard.*

[Telegram.]

PORTLAND, ME., July 3, 1886. [Received July —.]

Our schooner City Point seized in Shelburne, Nova Scotia, for taking in water and allowing men ashore before reporting. Please give instructions.

CUSHING &amp; MCKENNEY.

No. 255.

*Mr. Woodbury to Mr. Bayard.*

BOSTON, July 7, 1886. [Received July 10.]

SIR: I forward twelve affidavits of respectable fishermen of Gloucester laying the foundation to show that the Canadian authorities have this year, without notice, radically reversed their administration of laws toward American bait buyers and others. That thereby some of our fishermen have been entrapped and seized is well known to you. I retain a duplicate set, for use in case a suit is brought for a penalty of \$400 against an assumed master of the D. J. Adams, which the customs authorities allege has been incurred.

I have sent these in the expectation that, in the varying phases these Canadian assaults on our commerce assume, these facts may be useful to the Department, if not in the matter of the D. J. Adams.

I have, &amp;c.,

CHAS. LEVI WOODBURY.



[Inclosure 1.]

I, Frank Foster, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fifteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Shelburne, Digby, Grand Manan, Bliss Island, Argyle; and further says not.

[L. s.]

FRANK FOSTER.

AARON PARSONS,  
*Notary Public*

[Inclosure 2.]

I, Zebulon Tarr, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-one years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Canso, Cape North Bay, St. Anne, Margaree; and further says not.

[L. s.]

ZEBULON TARR.

AARON PARSONS,  
*Notary Public.*

[Inclosure 3.]

I, John Collins, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-seven years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Canso, Georgetown, Yarmouth, Digby, Cape Negro, Tusket Island, Scatari, Sydney, Louisburg, White Head; and further says not.

[L. s.]

JOHN COLLINS.

AARON PARSONS,  
*Notary Public.*

[Inclosure 4.]

I, Jesse Lewis, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in course of my calling during the last forty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coasts for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Yarmouth, Cape Negro, Halifax,

Shelburne, Liscomb, Country Harbor, White Head, Canso, La Have, Liverpool, Ransberry Harbor, Souris, Georgetown, Charlottetown, Manepeck; and further says not.  
[L. s.] JESSE LEWIS.

AARON PARSONS,  
*Notary Public.*

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[Inclosure 5.]

I, George H. Martin, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last 23 years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purposes was required to report at the nearest custom-house or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, Tusket Island, Pubnico, Barrington, John's Island, Shelburne, Liverpool, Margaret Bay, Dover, Prospect, Cat's Harbor, Isaac's Harbor, Liscomb, White Haven, Cape Canso, St. Peter's Bay, Louisburg, Judique, Sydney, St. Anne's Bay; and further says not.

[L. s.]

GEO. H. MARTIN,

AARON PARSONS,  
*Notary Public.*

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[Inclosure 6.]

I, James T. Simpson, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Campobello Island, St. Andrews, Bliss Island, Grand Manan, Beaver Island, St. Mary's Bay, Yarmouth, Cape Negro, Shelburne, Cape La Have, Sambro, White Head, Canso, St. Peter's Bay, Arichat, Louisburg, Sydney, St. Anne's Bay, Port Hood; and further says not.

[L. s.]

JAMES T. SIMPSON.

AARON PARSONS,  
*Notary Public.*

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[Inclosure 7.]

I, Simeon McCloud, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Wood Harbor, Green Cove, John's Island, Rayton's Island; and further says not.

[L. s.]

SIMEON MCLOUD.

AARON PARSONS,  
*Notary Public.*

[Inclosure 8.]

I, Nathaniel P. Smith, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, St. Andrews, Campobello Island, St. John, New Brunswick, Weymouth, Yarmouth, Argyle, Pubnico, Barrington, Gaspe, Cape Negro, Shelburne, Liverpool, Dover Harbor, Lunenburg, La Have, Prospect, Sambro, Halifax, Beaver Harbor, Country Harbor, White Head, Canso, Sydney, Arichat, Louisburg, Charlottetown, Georgetown, Souris, Cascapec, Port Daniel, Ship Harbor; and further says not.

[L. S.]

NATHANIEL P. SMITH.

AARON PARSONS,  
*Notary Public.*

[Inclosure 9.]

I, Thomas Jones, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Digby, Brier Island, Campobello Island, St. Andrews, Beaver Harbor, Bliss Island, Head Harbor, Yarmouth, St. Mary's Bay, Grand Manan, Cape Negro, Shelburne, Liverpool, Dover, Halifax, Canso, Sydney, Jeddore Harbor, Ship Harbor, Louisburg, Georgetown, Souris, Chaleur Bay; and further says not.

[L. S.]

THOMAS JONES.

AARON PARSONS,  
*Notary Public.*

[Inclosure 10.]

I, Scott Geyer, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last twenty-five years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Grand Manan, Head Harbor, Campobello Island, Beaver Harbor, Digby, Bliss Island, Brier Island, Barrington, Cape Negro, Prospect, Cape Canso, Gut of Canso, White Head, Halifax, Liverpool, Shelburne, Georgetown, Souris, Charlottetown, Malpeque, Chaleur Bay; and further says not.

[L. S.]

SCOTT GEYER.

AARON PARSONS,  
*Notary Public.*

[Inclosure 11.]

I, Edward Cantillion, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last thirteen years have entered many places and ports of Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.



I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: Grand Manan Island, Digby, Brier Island, St. Mary's Bay, Green Cove, Yarmouth, Shelburne, Liverpool, Cole Harbor, Dover, Arichat, Canso, Bedeque, St. Anns, Sydney; and further says not.

[L. S.]

EDWARD CANTILLION,  
*Schooner Sylvester.*

AARON PARSONS,  
*Notary Public.*

[Inclosure 12.]

I, Jeffrey F. Gerroir, of Gloucester, Commonwealth of Massachusetts, in the United States of America, on my oath do say I am a fisherman, and in the course of my calling during the last fourteen years have entered many places and ports in Nova Scotia for the purpose of buying bait to be used by the vessel I was on in the deep-sea fishery.

I further say we were always freely allowed to purchase what bait we wanted, and before this year I never heard of or knew an instance where such vessel lying to or anchoring within the three-mile limits of the coast for such purpose was required to report at the nearest custom-house, or to make entry there, or was warned off. I have been in at the following places on that coast, viz: St. Andrews, New Brunswick; St. John, New Brunswick; Digby, Yarmouth, Barrington, Shelburne, Liverpool, La Have, Lunenburg, Halifax, Dover, Arichat, Canso, Bedeque, St. Anne, Sydney, Port Hood, Louisburg, Charlottetown, Souris, Georgetown; and further says not.

[L. S.]

JEFFREY F. GERROIR.

AARON PARSONS,  
*Notary Public.*

No. 256.

*Mr. Willard to Mr. Bayard.*

PORTLAND, ME.,

July 7, 1886. [Received July 9, 1886.]

DEAR SIR: We wired you the particulars of the seizure of our schooner George W. Cushing by the Canadian authorities. As yet we have no reply to our question as to what we should do in the matter. We suppose, however, that you are giving it the consideration that it deserves, and that we shall hear from you when you have reached a satisfactory conclusion.

This vessel we kept tied to the wharf three weeks, and only allowed her to go after we understood you had arranged matters and that our vessels could have all the privileges that we accorded to theirs. It seems that everybody here so understood it, and this is the cause of so many of our vessels calling at Nova Scotia ports for a week past. They notify us that we can have the vessel by the payment of a fine amounting to about \$600, and that she is not held for a violation of the treaty of 1818, but for violation of customs regulations. This is plainly only a pretext, as they forbid our vessels the privilege of entering and purchasing supplies, as we understand their law, by the reading, it applies to vessels in the coasting trade, but if it applied to fishermen there has been only a technical violation, and where it can be plainly shown that there was no intent to evade the laws they ought to release the vessel, as our Government did in the case of the schooner Sisters, which was held for gross ignorance on the part of the skipper. The captain of this

vessel has been getting bait and ice in their ports for thirty years, and until the present has never seen the inside of a custom house. Their vessels have always entered our ports and sold fresh fish, got supplies, and enjoyed privileges that even our own vessels have not enjoyed, but it seems that they are determined to harass our fishing vessels in hopes to drive us into letting them have our markets free, which, with the bounties they enjoy from the money our Government paid, they can destroy the business in New England and get a complete monopoly. We claim that it is not an actual necessity for our vessels to procure bait and ice in their ports, but it is more convenient, as it is nearer the fishing grounds. Only such vessels engaged in the halibut fishery ever get bait there. The cod-fishermen take salt bait from here, and besides we furnish their cod-fishermen in the spring with thousands of barrels of salt clams.

While we think that these are matters which require time and caution, we do not think there is a nation on earth that would have stood the petty bulldozing that this Government has for the last twenty years, and we are of the opinion that this matter requires more than ordinary attention and haste, for there may be a rupture at any time that might involve the Government far more than it could by pursuing a vigorous policy. Our fishermen are getting into a bad frame of mind, and men like these, used to hardship and peril, might not hesitate to do most anything. Of course we deprecate any such measures, but they are not wholly within our control.

Everybody's opinion is entitled to some weight, and we venture to give ours as to the best course to pursue.

We think that your Department ought to telegraph the Dominion Government that, inasmuch as the vessels seized have been guilty of only a technical violation of customs laws, that they ought to release the vessels on the same terms that our Government has always released theirs. If they refuse to do this, then the President, with the power given him by Congress, should give them notice that he should immediately issue his proclamation, declaring non-intercourse in all matters pertaining to the fisheries, and that from the 1st day of August no fish from the provinces can be landed in the United States and none exported from here thence, such decree to remain in force six months, unless sooner revoked.

The effect of this would be to bring them to terms very quick, as they are almost wholly dependent upon our market for the disposition of their fish, and without this privilege Nova Scotia is almost helpless.

For the honor of the old Democratic party something must be done. Three-quarters of the people engaged in this business are Democrats, and they have been made so by the actions of the Republicans in the past. We understand that there are those that would manufacture political capital out of this matter, but it is too serious a thing, and they can easily be handicapped by vigorous action in this matter by your Department.

As a faithful defender of the faith these many years, we pray that we may see one of the ends for which we have fought brought to a successful issue.

Please do not leave this important matter to assistants, and you will greatly oblige if you will let us know what we have to expect, and if we have any rights which Canada is bound to respect.

This is a private letter and is not given to the papers for publication, and if you will give us a reply in full we will treat it as confidential.

Yours respectfully, &c.,

E. G. WILLARD.

No. 257.

*Mr. Bayard to Mr. Willard.*DEPARTMENT OF STATE,  
*Washington, July 9, 1886.*

SIR: Your telegram of the 3d, and your letter of the 7th instant, stating the seizure at Shelburne, Nova Scotia, by the local authorities of that port, of the schooner *George W. Cushing*, were duly received.

Before the receipt of either, news of this seizure had been received by this Department and instant instructions had been sent to the consul-general at Halifax to proceed to Shelburne and obtain full knowledge of all the facts and make full report to this Department of the cause of such seizure, and the nature of the complaint upon which such proceeding were founded.

In the absence of such authentic information it is impossible for this Department to take any action, or to give you advice.

As the contents of your telegram and letter disclose, you are well aware that questions are now pending between this Government and that of Great Britain in relation to the just definition of the rights of American fishing vessels in the territorial waters of British North America.

I shall relax no effort to arrive at a satisfactory solution of the difficulty, and in the mean time it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force.

For all unlawful deprivation of property or commercial rights this Government will expect to procure due redress and compensation for the innocent sufferers.

Very respectfully, yours,

T. F. BAYARD.

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No. 258.*Mr. Boutelle to Mr. Bayard.*

[Telegram.]

HOUSE OF REPRESENTATIVES,  
*July 10, 1886.*

I have just received a dispatch from Eastport, Me., stating that American boats after herring for sardines at St. Andrews, New Brunswick, were driven away last night by the Dominion cruiser *Middleton*, and it is announced that no American boats will be allowed to take herring for any purpose. I earnestly invoke the immediate attention of the Department to this matter.

C. A. BOUTELLE.



No. 259.

*Mr. Bayard to Mr. Boutelle.*DEPARTMENT OF STATE,  
July 10, 1886.

DEAR SIR: I have just received your telegram of this date, stating that you had a dispatch from Eastport, Me., that American boats after herring for sardines at St. Andrews, New Brunswick, were driven away by the Dominion cruiser Middleton, with the announcement that no American boats will be allowed to take herring for any purpose.

And to this you invoke the immediate attention of this Department.

On the 2d of June last you called at this Department in company with Senator Hale, of Maine, and then drew my attention to a similar threat of interference with the purchase of small herring for canning as sardines from the Canadian weirs.

On the same day I made representation of the alleged threats to the British minister at this capital, and drew his attention to the alleged violation of lawful commercial intercourse between British subjects in Canada and the citizens of the United States.

I was in hopes that further interference with a recognized and legitimate trade would be prevented, but will again address the British minister on the subject.

It will assist materially in all such cases of alleged violation of commercial rights, if accurate and full statements of all the facts in each case are procured and forwarded to this Department accompanied by affidavits.

A great deal of loose rumor and sensational statement would be thus disposed of, and a tangible basis be laid for claim for compensation by the injured parties.

I have, &c.,

T. F. BAYARD.

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No. 260.*Mr. Bayard to Mr. Woodbury.*DEPARTMENT OF STATE,  
Washington, July 13, 1886.

SIR: Your letter dated July 7, with twelve affidavits of Gloucester fishermen alleging their long-continued custom of purchasing bait in places and ports in Nova Scotia to be used in deep-sea fishing, has been received, and shall be placed on file for future reference in connection with claims for compensation, growing out of the unlawful prevention of this usage by the Canadian authorities.

I am, &c.,

T. F. BAYARD.

No. 261.

*Mr. Boutelle to Mr. Bayard.*HOUSE OF REPRESENTATIVES,  
*Washington, July 14, 1886. [Received July 15.]*

SIR: Acknowledging receipt of your letter of 13th instant, stating that the view presented by me will receive due consideration, I beg to inclose herewith the affidavit of Stephen R. Balkam, of Eastport, setting forth the facts of the refusal of the commander of the cruiser Middleton to permit him to purchase herring at St. Andrews, New Brunswick, on Friday, July 9, 1886, as referred to in the telegram forwarded by me to the Department on the 10th instant.

I am, &amp;c.,

C. A. BOUTELLE.

[Inclosure.]

*Affidavit of Stephen R. Balkam.*

I, Stephen R. Balkam, of Eastport, in the county of Washington, State of Maine, on oath declare that on Friday morning, July 9, 1886, I was at St. Andrews, N. B. My business was to procure herring for canning. I am employed by Hiram Blanchard & Son. The Dominion cruiser Middleton was at anchor near the beacon at St. Andrews. A boat from the Middleton, commanded by Capt. William Kent, came alongside of my boat and asked if my boat was American, and where my boat was owned. I replied that the boat was owned at Eastport, Me. He then said I could not take any herring, and if I took any would be liable to be seized. He told me if I wished to get herring I must get an English boat; that I could not get herring with an American boat. It had been my practice to buy the herring of men who caught them in seines, they delivering the herring in the gunwale of my boat. On the day the Middleton drove me away I was paying \$10 per hoghead for the herring. The men of whom I bought them were Dominion fishermen. The captain of the Middleton then left me and went to other American boats and ordered them away. They left without having procured any fish. I took an English boat in tow that had taken fish from the seine, towed her into American waters, then took her fish, and came to Eastport.

STEPHEN R. BALKAM.

Sworn and subscribed before me this 12th day of July, 1886.

N. B. NUTT,  
*Justice of the Peace.*

No. 262.

*Mr. Bayard to Mr. Boutelle.*DEPARTMENT OF STATE,  
*Washington, July 15, 1886.*

SIR: I have your letter dated yesterday enclosing the affidavit of Stephen R. Balkam, relating the circumstances of his being ordered away from St. Andrews, New Brunswick, by the Dominion cruiser Middleton, Captain Kent, in July 9th instant, and the refusal by Captain Kent to allow the deponent to purchase fish caught and sold by Canadians for canning.

The affidavit shall be placed on file for reference.

Yours, &amp;c.,

T. F. BAYARD,

No. 263.

*Mr. Woodbury to Mr. Bayard.*BOSTON, *July 28, 1886.* [Received July 29.]

SIR: I have the honor to enclose for your consideration the affidavit of James McDonald, master of the schooner Thomas F. Bayard, who has been illegally driven from the waters of Bonne Bay, on the north-west coast of Newfoundland, in direct violation of the treaty of 1818.

In this connection I would refer you to the fact that the British Government have twice declined to ratify laws of Newfoundland prohibiting the sale of bait (see Executive Document No. 84, Forty-sixth Congress, second session, House of Representatives, pp. 106-7): once when the Duke of Newcastle was minister, and again when Sir M. Hicks Beach was colonial secretary, in 1878. In 1885 I wrote to our minister at London requesting him to ascertain at the colonial office whether since 1878 any law of Newfoundland prohibiting the sale of bait to foreigners had been approved, and the reply furnished him was, none had been. This is the only instance of the kind from Newfoundland that has come to my knowledge. Captain McDonald sails to-morrow, but proof of his loss will be made up and transmitted to the Department.

I forwarded some time since some evidence as to the collector at Magdalen Islands denying treaty rights to our vessels. I inclose the affidavit of A. McEachern, master of the schooner Mascot, that he was denied at Port Amherst, June 10th, any privilege except wood and water, and also threatened with seizure even if he should take a pilot! The Magdalen Islands, like the west coast of Newfoundland, are by treaty particularly stated to be places where the common rights of fishery on land or sea are to be enjoyed by both parties to the treaty.

I am, &amp;c.,

CHAS. LEVI WOODBURY.

[Inclosure 1.]

*Captain James McDonald to Mr. Bayard.*GLOUCESTER, *July 28, 1886.*

SIR: The schooner Thomas F. Bayard, of Gloucester, of which I am master and part owner, sailed from Gloucester June 22 on a trip after halibut, with license and trade permit. My supply of bait becoming exhausted, I entered the port of Bonne Bay, on the northwest coast of Newfoundland, for the purpose of procuring a supply of bait on July 12. Directly on anchoring, I reported at the custom-house to the collector and stated my object was to buy bait. Mr. Taylor, the collector of the port, immediately served upon me a notice, which I transmit herewith, to the effect that the presence of my vessel in the port was in violation of the articles of the convention of 1818, and also warned me not to buy bait. Having a copy of the Ottawa circular of March 5, 1886, with me, I produced it and read to the collector the treaty clause 2 there printed, and argued with him that I had the treaty right to come in here. His reply was, in substance, that he must perform his duty and prevent me from buying bait. I returned to my vessel, and, fearing I should be seized if I bought bait or fished in the three-mile limit or remained, I sailed for home, and arrived at Gloucester July 26, my voyage being broken up, and having a small fare. I left one of the best chances to obtain a large fare of fish, that were very plentiful in the vicinity of the port. I estimate the losses of the vessel and crew at \$1,000, roughly.

I thought it proper to lay this matter before you that, if I had the right to fish on that coast, I might procure recompense and damages for the injury done my voyage.

I am, &amp;c.,

JAMES McDONALD,  
*Master.*



[Inclosure 2.]

2. Sworn statement of Captain McDonald, dated July 28, 1886. Printed as inclosure No. 1 to Mr. Phelps's note of September 11 to Lord Iddesleigh. See *ante*, No. 174, p. 360.

[Inclosure 3.]

3. Sworn statement of Alexander MacEachern, dated July 27, 1886. (*Ibid.* See *ante*, No. 174, p. 361.

No. 264.

*Mr. Bayard to Mr. Woodbury.*

DEPARTMENT OF STATE,  
Washington, July 30, 1886.

SIR: I beg to acknowledge your letter dated July 28, accompanied by the affidavit of Captain McDonald, of the schooner T. F. Bayard, and the notice given him at Bonne Bay, Newfoundland, and also the affidavit of Capt. Alexander McEachern, of the schooner Mascot.

These infractions of the rights of American citizens intended to be secured under the convention of 1818, have been duly brought to the notice of the British minister at this capital, and I have also sent copies of these papers to the United States minister at London, with instructions that the contents of the same be made known to the foreign office in order to prevent any further violation of the rights of our citizens, and that notice be given of the claim hereafter upon the Government of Great Britain for all loss and damage to the vessels in question and their owners, when the same shall have been ascertained, by reason of this unlawful action on the part of the authorities of Newfoundland and Magdalen Islands.

I am, &amp;c.,

T. F. BAYARD.

No. 265.

*Mr. Woodbury to Mr. Bayard.*

BOSTON, July 30, 1886. [Received July 31.]

SIR: Herewith is transmitted the affidavit of the crew of the schooner Thomas F. Bayard, relative to her having been forced to abandon her fishing voyage on the northwest coast of Newfoundland, and return home, in consequence of a warning that she would be seized by the shore authorities if she fished or bought bait within the three-mile limit, which has been transmitted to the Department. My information is that the schooner has sailed on another trip.

I am, &amp;c.,

CHAS. LEVI WOODBURY.

[Inclosure.]

*Affidavit of captain and crew of schooner Thomas F. Bayard.*COMMONWEALTH OF MASSACHUSETTS, *Essex*, ss :GLOUCESTER, *July 29, 1886.*

We, the undersigned, on oath declare and say that we were members of the crew of the schooner Thomas F. Bayard, of the port of Gloucester, on the trip that commenced June 15, 1886, and ended July 19. We entered Port Mulgrave, and were informed that we had a right to fish in the northwest coast of Newfoundland. We entered Bonne Bay July 12, and were forbid to buy bait or to fish, and returned home with but a small part of a fare. The fishermen at Bonne Bay were anxious to sell bait to us if we could buy. We know the fish were there, and if we had been allowed to buy bait and to fish should have procured a full fare.

ALEX. McDONALD.

JAMES LANGLEY.

DAVID CAMPBELL.

his

MILTON + ATKINS.

mark.

his

JOHN + McNEIL.

mark.

JOHN McEACHERN.

ANGUS McDONALD.

PETER MCALPIN.

EUGENE NICKERSON.

WILLIAM ATKINSON.

his

WILLIAM + DE CORTE.

mark.

his

DANIEL + McCORMICK.

mark.

COMMONWEALTH OF MASSACHUSETTS, *Essex*, ss :GLOUCESTER, *July 29, 1886.*

Personally appeared the above-named Alexander McDonald, Angus McDonald, James Langley, Peter McAlpin, Daniel Campbell, Eugene Nickerson, Milton Atkins, William Atkinson, John McNeil, William De Corte, John McEachern, and Daniel McCormick, and on oath declared the above statement by them subscribed to be true.

[L. S.]

AARON PARSONS,

*Notary Public.*

No. 266.

*Mr. Bayard to Mr. Woodbury.*

DEPARTMENT OF STATE,

*Washington, July 31, 1886.*

SIR: I beg to acknowledge your letter of yesterday accompanied by the affidavit of Alexander McDonald and eleven others, members of the crew of the schooner Thomas F. Bayard, of Gloucester, stating the refusal of the local officials at Bonne Bay, Newfoundland, to permit fishing or the purchase of bait on that coast.

The subject to which this paper relates received due attention yesterday, as you were advised.

I am, &amp;c.,

T. F. BAYARD.

No. 267.

*Mr. Presson to Mr. Bayard.*

COLLECTOR'S OFFICE,

*Gloucester, Mass., August 9, 1886.* [Received August 11.]

SIR: I am requested to forward the inclosed affidavit of Capt. Daniel McDonald of schooner Hereward, of Gloucester, in regard to his detention at Cape Canso, Nova Scotia, July 2.

Very respectfully, &amp;c.,

D. S. PRESSON,

*Collector.*

[Inclosure.]

*Affidavit of Captain McDonald, of the schooner Hereward.*

GLOUCESTER, August 6, 1886.

I, Daniel McDonald, master of American schooner Hereward, of Gloucester, do depose and say: That I went into Cape Canso, N. S. with my vessel, on the afternoon of July 2, and went to the custom-house and reported. One of my crew went on shore without authority and failed to return at night; some of the crew thought he had deserted and engaged another man to take his place (all without any authority from me), but he returned the next morning.

The next morning the collector, Mr. Young, came on board and demanded my papers (charging me with shipping a man). I gave them to him, and he kept them until 10.30 o'clock that eve, when he returned them to me. As I was all ready to sail that morning, it detained the vessel two (2) days in that port, as the next day was Sunday.

DANIEL M'DONALD.

MASSACHUSETTS, Essex, ss :

AUGUST 6, 1886.

Personally appeared D. McDonald, and made oath to the above.  
Before me.

[L. S.]

AARON PARSONS,  
Notary Public.

No. 268.

*Mr. Presson to Mr. Bayard.*

CUSTOM-HOUSE, GLOUCESTER, MASS.,  
Collector's Office, August 10, 1886. [Received August 11.]

SIR: In reply to your telegram of 5th instant I inclose affidavits of Captain Cunningham, of schooner Rattler, and his passenger and crew, in relation to their treatment at Shelburne, Nova Scotia, on going in there for shelter on 3d instant.

Very respectfully, &amp;c.,

D. S. PRESSON,  
Collector.

[Inclosure.]

*Affidavit of Captain Cunningham, of the schooner Rattler.*

I, Augustus F. Cunningham, master of the schooner Rattler, of Gloucester, being duly sworn, do depose and say: That on Thursday, July 8, 1886, we sailed from Gloucester on a mackerel cruise. On Tuesday August 3d (having secured a fare of mackerel and while on our passage home), at 7 p. m., the wind blowing hard, the sea being rough, and our vessel being deeply loaded, with two large seine-boats on deck, we put into the harbor of Shelburne, N. S., for shelter. Just inside of the harbor we were brought to by a gun fired from the Canadian cruiser Terror, Captain Quigley, and came to anchor.

Immediately a boat from the Terror came alongside and its commander, Lieutenant Bennett, asked why we were in the harbor. My reply was, "For shelter." Then taking the name of our vessel, names of owner and captain, where from, where bound, and how many fish we had, and forbidding any of the crew to go on shore, he returned to the Terror for further instructions.

Boarding us again, after a lapse of perhaps forty-five minutes, he put two armed men on board of us, asked for our crew-list, and said if I remained until morning I must enter at the custom-house, but if I could sail in the night to tell his men to fire a revolver and a boat would be sent to take them off. At 12 o'clock that night, preferring to risk the dangers of the sea to the danger of seizure, I ordered the anchor hove short,



the mainsail hoisted preparatory to sailing, and told one of the Terror's men to fire a revolver, which he did.

Receiving no reply, and seeing no signs of life on board the Terror, I ordered the revolver to be fired again. This brought a boat from the Terror, commanded by First Lieutenant Bennett, who boarded my schooner, gave each of the two men on board an extra revolver, and told me the orders of Captain Quigley were, that I should not leave the port until I had reported to the customs officer at Shelburne. Upon receipt of these orders I payed out the chain and lowered the mainsail. The boat went back to the Terror and immediately returned with Captain Quigley on board.

He denied the permission given me by his first officer to sail in the night and ordered me to go to Shelburne and enter and clear at the custom-house there.

I asked him how I should go, as we were 8 miles distant from the custom-house. His reply was, "I don't care, sir, how you go; but you must go there; and on your return show your clearance to me or suffer the consequences." He told me my vessel was in charge of his two men, and to them he gave these orders:

"Gunner, you will allow the captain to proceed to Shelburne with the vessel, come to anchor, take his dory and two men, no more, and go on shore to enter. Allow them to bring nothing off in their dory; and if a man puts his hand on the wheel to go to sea, chop his arm off or shoot him, as the case may require."

I asked him if the law was not very strict that did not allow a vessel arriving at night after office hours to proceed before daylight, and why the law was enforced. He replied, it was to prove that Canadian harbors were a benefit to American fishermen.

At daylight we got under way and started for Shelburne, and Lieutenant Bennett and four more armed men came on board. We arrived at Shelburne about 4.30 o'clock a. m. I went on shore with Lieutenant Bennett and his boat's crew, woke up Collector Atwood, who, after inquiring of the lieutenant if there were any charges against me, entered and cleared the vessel.

On my return to the vessel the lieutenant requested me to exhibit my clearance, which I did, and we were then allowed to depart. I would state that when we first entered the harbor of Shelburne a Canadian vessel entered just ahead of us, and she was unmolested, sailing at her pleasure during the night, which showed plainly that an American vessel was not accorded the same treatment in Canadian ports as are Canadian vessels, although, as the collector at Halifax informed me in June last, the same laws applied to Canadian vessels as to American vessels.

During the whole difficulty my language was respectful and I quietly submitted to the detention, to the sarcastic language and overbearing conduct of Captain Quigley, but I deem my treatment and detention severe and unjust and an outrage upon the international courtesy that should exist between two friendly nations.

A. F. CUNNINGHAM.

I, Lawson C. Rich, of Canton, N. Y., a passenger on board schooner Rattler with Captain Cunningham, do depose and say that the above statement of Captain Cunningham is true in every particular.

LAWSON CARTER RICH.

MASSACHUSETTS, *Essex*, ss :

AUGUST 9, 1886.

Personally appeared A. F. Cunningham and L. C. Rich and made oath to the truth of the above statement.

Before me.

[L. S.]

AARON PARSONS,  
Notary Public.

We, William Bowie, Frederick Brooks, Charles Lowry, Charles Hart, George Vibert, John Hart, John Lowry, Daniel McLean, Alexander O'Neil, James Levange, and Martin Guthrie, of the crew of schooner Rattler, do depose and say that the above statement of Captain Cunningham is true in every particular.

WM. BOWIE.  
FRED. BROOKS.  
CHARLES LOWRY.  
CHARLES HART.  
GEORGE VIBERT.  
JOHN G. HART.

JOHN LOWRIE.  
DAN. MCLEAN.  
ALEX. O'NEIL.  
JAMES LEVANGE.  
MARTIN GUTHRIE.

MASSACHUSETTS, *Essex*, ss :

AUGUST 10, 1886.

Personally appeared the above-named persons, crew of schooner Rattler, and made oath to the truth of the above.

Before me.

[L. S.]

AARON PARSONS,  
Notary Public.

No. 269.

*Mr. Presson to Mr. Bayard.*

CUSTOM-HOUSE, GLOUCESTER, MASS.,  
*Collector's Office, August 14, 1886. [Received August 16.]*

SIR: I inclose affidavit of Capt. Reuben Cameron, of schooner *Golden Hind*, of this port, who was forbidden to enter the harbor of Port Daniel, N. S., for water. This being a clear violation by the Canadian Government of the treaty of 1818, I respectfully submit the case for your consideration.

Very respectfully yours, &c.,

D. S. PRESSON,  
*Collector.*

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[Inclosure.]

*Affidavit of Captain Cameron, of the schooner Golden Hind.*

I, Reuben Cameron, master of the American schooner *Golden Hind*, of Gloucester, do depose and say: That we sailed from Gloucester July 3, 1886, bound to the Bay of St. Lawrence, on a fishing voyage. That on or about July 23, being out of water, started to go into the Bay of Chaleurs (Port Daniel) to fill water. At the entrance of the bay, four or five miles from land, was met by the Canadian schooner *E. F. Conrad*; an officer came on board, took my name, name of vessel, tonnage, name of owner, &c., and ordered me not to go into Bay of Chaleurs. He also furnished me with a printed "warning," with this indorsement written thereon: "Don't enter the Bay of Chaleurs, N. S." After this warning I put to sea, and was obliged to go across to Tignish, P. E. I., to obtain a supply of water for use of my crew.

This delayed me at least a week, and the loss of at least a good trip of mackerel, as during that time another vessel from the same firm, in five days, on the same fishing grounds, took 460 barrels of mackerel, and caused a loss to my owners of at least five thousand dollars (\$5,000).

REUBEN CAMERON.  
*Master.*

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We, the undersigned, a part of the crew of the schooner *Golden Hind*, do depose and say that the above statement of Captain Cameron is true in every particular.

JAMES A. POWELL.  
 GILBERT SMITH.

AUGUST 13, 1886.

MASSACHUSETTS, *Essex, ss*:

Personally appeared Reuben Cameron, James A. Powell, and Gilbert Smith, and made oath to the above.

Before me.

[L. S.]

AARON PARSONS, *N. P.*

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No. 270.

*Mr. Bayard to Mr. Presson.*

DEPARTMENT OF STATE,  
*Washington, August 18, 1886.*

SIR: In reply to your letter of the 14th instant, inclosing affidavits of Reuben Cameron, master of the schooner *Golden Hind*, setting forth that he was forbidden by officers of the Canadian Government from en-

tering the harbor of Port Daniels, in the Bay of Chaleurs, for the purpose of obtaining water, and that he was compelled to make a voyage to Prince Edward's Island to obtain such supply, involving a week's delay and consequent loss.

I have to inform you that immediate protest against this infraction of express treaty rights and violation of the rights of common hospitality has been made by me to the British minister at this capital, and notification given to him that claim will hereafter be made upon the Government of Great Britain for all loss incurred by the unwarranted action of the Canadian officials above stated.

Earnest request was also made that orders should be issued forthwith to prevent a repetition of such unlawful and unfriendly conduct towards our vessels engaged in fishing.

I am, &c.,

T. F. BAYARD.

No. 271.

*Mr. Bayard to Messrs. Cushing and McKenney.*

DEPARTMENT OF STATE,  
Washington, August 19, 1886.

GENTLEMEN: Referring to your complaint of the 3d of July last, concerning the detention of your fishing schooner *City Point*, by the Canadian authorities at the port of Shelburne, Nova Scotia, which was at once communicated to the British minister here, I have to inform you that her Britannic Majesty's Government has made reply, alleging that the master of the *City Point* committed a breach of the customs laws of the Dominion by not reporting to the customs authorities, and by landing part of the crew and luggage. It is further stated that the vessel in question was subsequently released on deposit of \$400.

It appears from this reply that no charge of violating the fishing laws or infringing the treaty was made against the *City Point*, but that the sole allegation is the failure of her master to observe the customs regulations applicable to any vessel resorting to a port of entry, and communicating with the shore.

The United States consul-general at Halifax will be instructed to watch the case, and, in the event of the penalty being affirmed, to ascertain the laws and regulations on which such judgment rests.

I am, &c.,

T. F. BAYARD.

No. 272.

*Mr. Woodbury to Mr. Bayard.*

BOSTON, October 12, 1886. [Received October 13.]

SIR: Herewith please find the affidavits of Captain Kemp, of the American schooner *Pearl Nelson*; Henry Cook, her owner; William Babino, cook and steward; M. N. Gifford, cashier of bank, relative to



the detention of that schooner at Arichat, and the exaction of a deposit of \$200 by the authorities as the condition for her release. What statute she had violated, if any, those interested in her have been unable to discover. The only charge made was that a part of her crew had gone ashore in the night and returned in the morning.

The parties interested in her, believing that the exaction referred to was in violation of law, and of their rights as American citizens in calling at the port of a friendly nation, in stress of weather, respectfully desire the protection of the United States, and that the damages which have arisen to them by the illegal seizure, detention, and exaction may be reimbursed to them.

I have the honor, &c.,

CHAS. LEVI WOODBURY.  
Pr. OWNER.

P. S.—The owners have transmitted duplicates of these affidavits to the consul at Halifax, for use before the Ottawa authorities, for remission.

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[Inclosure 1.]

*Affidavit of Captain Kemp, of the schooner Pearl Nelson.*

PEARL NELSON, U. S. A.,  
*District of Massachusetts:*

I, Murdock Kemp, of Provincetown, in Massachusetts, a citizen of the United States, on my oath do say: That I was master and part owner of the schooner Pearl Nelson, a vessel of the United States duly licensed —, 1886, for the fisheries, and holding a permit to touch and trade during the existence of said license.

I further say that the crew of said vessel were shipped on wages at Provincetown and Boston for a fishing voyage to the Grand Banks, and return to Provincetown for discharge. Said schooner, with license and permit as aforesaid, sailed May 29, 1886, from Provincetown, and in her passage home touched at Arichat, Cape Breton, driven in there by stress of weather. Sailed by the wind from Bank Quero, and blowing fresh a heavy sea running and foggy, made Point Michaux, 9 miles from Arichat. The vessel was deep; her dories floated on deck in her lee waist; wind being about west I concluded to make a harbor and wait for better weather and wind. I anchored the vessel in Arichat Harbor at 11 p. m., September 7, 1886. I had lost a man on the Grand Banks, named James Sampson, who belonged to Arichat, and I wanted to land his effects, if the customs officers would allow me to. Some of my crew belonged in that neighborhood. William Babino, my cook, and nine others of the crew took boats off the deck and went ashore without asking my permission. I saw them, but had never known that was any objection. I had been in this and other British North American ports frequently, and witnessed the landing from my own and other vessels' crews, but never before heard such landing was illegal or improper. These men took nothing from the vessel with them nor carried away anything but the clothes they wore.

From the time I left Provincetown I had been into no port any where. Next morning, after my arrival in Arichat, at 8½ o'clock, I went ashore to enter at the custom-house, and found it closed. I called at 9 o'clock and it was not open. I went again at 1 o'clock, and found the collector opening the office door. I made the regular inward report to him, and requested permission to land the clothes of James Sampson, who had been lost from my vessel on the Grand Banks. He told me he had sent a man for me. After I got there this man came in. The officer was holding my papers and told the man to go back and take charge of the vessel. I asked him why he held my papers; he replied, he seized her because I had allowed my men to go ashore before reporting at the custom-house; that all he would tell me was, he said he would telegraph to Ottawa and find out what to do with me; and he did telegraph immediately. About 5 o'clock p. m. the collector received an answer, and told me to deposit \$200 and the vessel would be released. The collector would not allow me to land this dead man's clothes until after I had paid the \$200 fine. I gave the clothes to the shop-keeper to be given to Sampson's widow or friends. I came out of Arichat about 11 a. m. on the 8th of September, 1886, having bought there one bushel of potatoes with the collector's permit and arrived at Provincetown September 14, 1886. I

sailed from Arichat with all my crew on board and had not at any time intended to leave any of my crew at that port. They were hired men shipped to be discharged on return at Provincetown, and on our arrival there were all paid off and discharged.

Some of the crew that went ashore at Arichat returned aboard as early as 7 o'clock, and all were aboard about the time the vessel was seized. I gave them no money there, and had none myself. I further say I did not enter Arichat with any intention of violating any law of the Dominion of Canada, nor for any business, but solely because of the stress of weather that had driven me there. It was mere kindness only that prompted me to offer to land Sampson's clothes there where his friends could get them. There was no profit to the vessel, crew, or myself expected in so doing, or attempted to be gained in entering the port of Arichat, other than shelter from stress of weather we had been under from Quero Bank.

If any revenue law of Canada was violated by my vessel or by myself the same was done through ignorance and inadvertence, and not with any intention to defraud the revenue or offend the law.

MURDOCK KEMP.

Personally appeared before me Murdock Kemp, at Provincetown, State of Massachusetts, United States of America, this 27th day of September, 1886, who subscribed and made oath to the foregoing.

[SEAL.]

JAMES GIFFORD,  
Notary Public.

[Inclosure 2.]

*Affidavit of Henry Cook, owner of the schooner Pearl Nelson.*

Personally appeared before me, James Gifford, deputy collector of customs at the port of Provincetown, in the District of Barnstable and State of Massachusetts, this 25th day of September, 1886, Henry Cook, of said Provincetown, who, being by me duly sworn, deposes and says that he is a citizen of the United States of America, a resident of said Provincetown, and managing owner of the schooner Pearl Nelson, of Provincetown, of which Murdock Kemp was master during a fishing voyage to the Grand Banks of Newfoundland, and which terminated on the 14th day of this month by the arrival of said vessel at this port.

The affiant further deposes that [previous?] to the sailing of said vessel to the Grand Banks he gave explicit instructions to Captain Kemp, as he also did to five other masters of Bank fishing vessels, to not enter any Canadian port on said voyage, going to or coming from said fishing banks, unless compelled to enter by disaster to the vessel or by stress of weather; and hence the masters were not supplied with any funds for themselves or their crews, nor authorized to draw drafts on me for payment of crews' wages, or for any purpose but for repairs in case of meeting with serious disaster.

He also deposes that the crew of said vessel Pearl Nelson consisted of fifteen men besides Captain Kemp; that five of them, viz, Cyprian Briand, Henry Briand, Remie Cardo, John McDonald, and William Babino — — — were shipped in Provincetown, and the balance, viz, Alexander Cardo, William Boudrot, Albert Robin, Andrew Frazer, Jeffrey Landry, Henry Duong, Henry Sampson, Alfred Langley, E. H. C. Lisboa, Duncan McRae, and James Sampson, were shipped in Boston, and were engaged to return directly to this port from the Grand Banks at the end of the voyage; and that excepting James Sampson, who was reported by Captain Kemp as lost on said banks, they did return to Provincetown, and were discharged here, and paid each one by draft on the First National Bank of Provincetown, which are now on file in said bank.

The affiant declares that if Captain Kemp violated any law of Canada in entering Arichat on the 7th of September, 1886, he did it unwittingly, and that the affiant feels that the collection of the \$200 fine imposed upon the Pearl Nelson is unwarranted by the circumstances under which the entry into that port was made.

HENRY COOK.

[Inclosure 3.]

*Affidavit of William Babino, cook of the Pearl Nelson.*

Personally appeared before me, James Gifford, deputy collector of customs of the port of Provincetown, district of Barnstable and State of Massachusetts, this 27th day of September, 1886, William Babino, who, being by me duly sworn, deposes and says

that he served as cook on the schooner Pearl Nelson, of Provincetown, of which Murdoch Kemp was master, during a fishing voyage to the Grand Banks of Newfoundland and return to this port the present fishing season; that he shipped in said vessel in Boston, State of Massachusetts, to be discharged in Provincetown, in said State; that on the homeward passage to this port the said vessel encountered a strong head wind with a heavy sea and a thick fog, and while off the coast of Cape Breton, N. S., the wind being still ahead with the sea, and the vessel making but little headway towards her destination, Captain Kemp, without before expressing any intention to run for that harbor, sailed her into Arichat, N. S. Arriving there about 11 o'clock on the night of September 7, 1886, and having anchored the vessel, the affiant and nine others of the crew left the vessel and went ashore, where he and the others remained the rest of the night without permission of the captain. We returned to the vessel the following morning, and about 10 o'clock that forenoon a customs officer came aboard the Pearl Nelson and seized her because, as he declared, the men had landed before the vessel was reported to the custom-house; that after the captain had paid a fine of \$200 the vessel was next day released, and sailed with all her crew on board for this port, where they arrived September 14, 1886, and were here all paid off in full and discharged.

The affiant further deposes he had not prior to the night of entering Arichat heard the captain say anything about entering there either for the purpose of landing the clothes and personal effects of James Sampson, one of the crew, who had been lost on the Grand Banks, and belonged to Arichat, or near there, nor for any other object.

He also deposes that neither he, nor, as he believes, neither of the 9 men who landed with the affiant, took with them any goods or effects whatever ashore, nor had he or they any knowledge or suspicion that their landing was in violation of any law or regulation of the Dominion of Canada.

WILLIAM BABINO.

JAMES GIFFORD,  
*Deputy Collector of Customs.*

[SEAL.]

Personally appeared before me James Gifford, deputy collector of the port of Provincetown, district of Barnstable and State of Massachusetts, at said Provincetown, this 27th day of September, 1886, Moses N. Gifford, cashier of the First National Bank, in Provincetown aforesaid, and who being by me duly sworn, deposes and says that he paid, on the orders or checks of H. & S. Cook, a firm composed of Henry Cook and Sylvanus Cook, of this place, merchants and owners of fishing vessels, the following-named persons the following sums to—

|                       |         |                            |         |
|-----------------------|---------|----------------------------|---------|
| Henry Sampson .....   | \$73 79 | Henry Duong .....          | \$98 32 |
| Alexander Cardo ..... | 113 70  | Emygdio A. C. Lisboa ..... | 118 19  |
| Jeffrey Landry .....  | 115 52  | Duncan McRae .....         | 97 40   |
| Cyprian Briand .....  | 171 95  | Albert Robin .....         | 122 26  |
| Remie Cardo .....     | 80 44   | William Boudrot .....      | 119 44  |
| William Robin .....   | 170 80  | Henry Briand .....         | 133 08  |
| Alfred Langley .....  | 77 42   | Andrew Frazer .....        | 117 70  |

on the 15th of September, 1886, and that names of the persons thus paid all appear as crew on the shipping articles of the schooner Pearl Nelson, of Provincetown, signed by them at Provincetown and Boston, in May, 1886, as appears by said articles.

MOSES N. GIFFORD,  
*Cashier.*

JAMES GIFFORD,  
*Deputy Collector of Customs.*

[SEAL.]

No. 273.

*Mr. Bayard to Mr. Woodbury.*

DEPARTMENT OF STATE,  
*Washington, October 15, 1886.*

SIR: I have your letter of the 12th instant, accompanied by sundry affidavits, stating the deposit of \$200 by the master of the American fishing schooner Pearl Nelson, under the compulsion of the customs



officers at the port of Arichat, Cape Breton, the ground alleged for this action by the officials at Arichat being the unlawful landing of the crew of the Pearl Nelson before reporting at the custom-house.

The case will be presented to the British minister at this capital, and notification given to him that compensation will be demanded for violation of the treaty privileges, should the British Government be found liable for breach of international duty on examination of the law and facts.

Your obedient servant,

T. F. BAYARD.

No. 274.

*Mr. Steele to Mr. Bayard.*

GLoucester, MASS., October 18, 1886. [Received Oct. 20.]

SIR: The season is approaching when American vessels have been accustomed to buy herring at the Grand Manan Island and vicinity, and bring them to Boston, Gloucester, New York, and Philadelphia.

The present position of the Dominion Government as to that trade concerns our interests greatly, and the fish trade desire to be informed whether that Government now considers the purchase of herring as open to American vessels, either when registered or licensed, with permit to trade.

We do not wish to explore their power of seizing or detaining these vessels, or of inflicting fines. If they object to our vessels continuing in that business, we prefer to keep away from those shores until the Dominion Government is better advised.

I apply to you for this information, which our merchants need, because I know of no other mode of obtaining it in a reliable shape.

I am, &c.,

GEO. STEELE,  
*President American Fishery Union.*

P. S.—This trade in winter herring has been carried on in our vessels almost exclusively for many years, and fifty or a hundred cargoes come in usually during the fall, winter, and spring.

They are largely consumed as food, and to some extent used as bait in our winter fishing to Georges and the Banks.

It is very rare for a British vessel to bring herring to our ports.

No. 275.

*Mr. Bayard to Mr. Steele.*

DEPARTMENT OF STATE,  
Washington, October 20, 1886.

SIR: I have just received your letter of the 18th instant, inquiring of me whether American fishing vessels, registered as such, and furnished with license to touch and trade in foreign ports, can proceed to Canadian ports, there to purchase and bring home cargoes of herring, without danger of molestation by the local authorities of the Dominion,

As you are well aware, a construction has been placed by the Dominion authorities upon the language of the treaty of 1818 between the United States and Great Britain under which they have assumed to exclude American fishing vessels from entrance into certain described territorial waters of Canada for any other than the three objects in the treaty mentioned—shelter, repairs, and to obtain wood and water—and have insisted that the words “and for no other purpose whatever” were to be rigidly enforced according to the strict letter.

This position, I need not say to you, is not accepted by the United States, but is repelled and denied, and that this Department is now endeavoring to secure such a joint interpretation of the treaty in question, considered in connection with the subsequent legislation by Great Britain and the United States creating commercial rights in the citizens of both countries, as will enable our vessels, whether engaged in fishing or not, to enter the established ports of entry of British North America and purchase lawful merchandise of any character in open market.

The United States have no diplomatic intercourse with Canada, but conduct all such matters directly with the imperial Government, through its minister at this capital or through our own minister at St. James.

This creates circumlocution and delay which is unavoidable.

It is my object to relieve the question of the rights of our fishermen from all uncertainty, and to obtain such a conceded, unambiguous, and clear definition of their rights and duties in Canadian ports and waters as will enable them to pursue their legitimate business with certainty, and in this duty I am now engaged.

It would be well for you to state whether the vessels so sent to purchase herring are to be manned and fitted out so as to be able to take fish or to trade only.

When I have received your answer on the last point I will at once endeavor to obtain a plain response to your reasonable question, and will communicate a reply at the earliest practicable moment.

Respectfully, &c.,

T. F. BAYARD.

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No. 276.

*Mr. Steele to Mr. Bayard.*

GLOUCESTER, MASS., October 25, 1886. [Received Oct. 27.]

SIR: I have the pleasure to acknowledge the receipt of your letter dated October 20.

My original inquiry referred both to vessels under license and to those sailing under a register. Your letter satisfies the inquiry as to those licensed for the fisheries.

We still desire to be informed as to whether vessels under registry of the United States will be allowed to enter at Grand Manan and other ports, and load and export herring to the United States.

Such vessels will be manned by a sailing crew, on wages, and not by a fishing complement of sharemen, nor will they carry the fishing gear which such vessels use when fishing under a fishing license.

The fishing interests, I assure you, appreciate the courtesy of your offer to procure this information seasonably for them.

I remain, &c.,

GEO. STEELE,  
*President of the American Fishery Union.*

## HAWAIIAN ISLANDS

No. 277.

*Mr. Merrill to Mr. Bayard.*

No. 45.]

LEGATION OF THE UNITED STATES,  
*Honolulu, February 12, 1886. (Received March 2.)*

SIR: I have the honor to inclose herewith three copies of new regulations controlling Chinese immigration into the Hawaiian Kingdom as officially published.

The inclosed regulations are amendatory of those made September 1, 1885, and forwarded to the Department by me in dispatch No. 20, dated September 12, 1885.

The evident policy of the Government is to prohibit the further immigration of Chinese into this Kingdom.

I have, &c.,

GEO. W. MERRILL.

[Inclosure in No. 45.]

## REGULATIONS CONTROLLING CHINESE IMMIGRATION.

By authority: Foreign office notice.

*Regulation amending the regulations for the control of Chinese immigration into the Hawaiian Kingdom, made and published on the 1st day of September, A. D. 1885.*

By virtue of the authority conferred upon me by a resolution of His Majesty, in cabinet council, passed on the 13th day of July, A. D. 1883, I hereby make and proclaim the following regulation in regard to the admission of Chinese passengers into this Kingdom, viz:

From and after the 1st day of April, 1886, no Chinese passenger shall be allowed to land at any port in the Hawaiian Kingdom unless such passenger be the bearer of a passport in due form and legally issued to him or her under the provisions of the regulations made and published by me on the 1st day of September, A. D. 1885, "for the control of Chinese immigration," and the provision in regulation number 1 of the aforesaid regulations, which allows the landing of not more than twenty-five Chinese passengers from any one vessel at any port in the Hawaiian Kingdom without passports, is hereby rescinded.

Given under my hand and seal of the Hawaiian Kingdom this 11th day of February, A. D. 1886.

[SEAL.]

WALTER M. GIBSON,  
*Minister of Foreign Affairs.*

No. 278.

*Mr. Bayard to Mr. Merrill.*

No. 33.]

DEPARTMENT OF STATE,  
*Washington, October 15, 1886.*

SIR: The 16th of November proximo being the fiftieth anniversary of the birth of His Majesty King Kalakaua, offers a pleasant and fitting opportunity for the manifestation of courtesy and good-will, of which the President desires to avail himself.



I am, therefore, directed by the President to instruct you to present his most cordial felicitations to His Majesty the King on the attainment of his fiftieth year, and to make expression on behalf of the Government and people of the United States of their steady friendship and hopes for the maintenance and development of close and mutually beneficial relations between the two countries.

An instruction has been sent to Mr. Bates, who was lately sent to the Samoan Islands and Tonga on a special agency, and who is now about to return to the United States, directing that if his movements bring him to Honolulu by the 16th November, he shall associate himself with you in conveying the President's friendly message to His Majesty. Should Mr. Bates's plans of travel permit him to execute this instruction, you will present him to the Hawaiian minister for foreign affairs as a special agent for the purpose mentioned, and arrange to have him join with you in the formalities of the occasion.

The late day at which the Department has received information of the public celebration of the approaching anniversary prevents the detail of a vessel of war to make a ceremonial visit to Honolulu. If, however, the Mohican, on which Mr. Bates may be a passenger homeward, should touch at Honolulu in season, you will endeavor to arrange with Captain Day for the participation of our naval flag in the anniversary ceremonies, including the firing of a royal salute and the presentation of the officers of the vessel to His Majesty.

I am, &c.,

T. F. BAYARD.

No. 279.

*King Kalakaua to the President.*

[Telegram received at the Executive Mansion from San Francisco, Cal., October 2, 1886.]

HONOLULU, *September 25, 1886.*

I desire to convey through you my heartfelt sympathy for the sufferers by the great earthquakes which have devastated so many homes.

KALAKAUA.

No. 280.

*The President to King Kalakaua.*

[Telegram.]

EXECUTIVE MANSION,  
Washington, *October 11, 1886.*

To His Majesty KALAKAUA,  
*Honolulu, via San Francisco:*

Your Majesty's kind words of sympathy are no less gratifying to the people of this country than to me, and in their name I thank you.

GROVER CLEVELAND.

## HAYTI.

No. 281.

*Mr. Bayard to Mr. Thompson.*

No. 29.]

DEPARTMENT OF STATE,  
Washington, November 7, 1885.

SIR: The subject of asylum in Hayti, to which reference was made in my instruction No. 28 of the 3d instant, is again brought to the Department's attention by the representations of Mr. Goutier, United States consul at Cape Haytien, a copy of whose dispatch, No. 757, of the 14th ultimo, is herewith inclosed for your information.

Mr. Goutier sets out with an erroneous summing up of the position taken by this Government in the premises. He says in one place that "the United States does not *recognize* the right of asylum in her consulates;" and, further, that "it is plainly set forth that this right is not admitted."

The statement properly should be that the Government of the United States does not *claim* for its legations abroad any extraterritorial privileges of asylum, and consequently makes no such *claim* in respect of consular offices, or private residences of American citizens, or American merchant vessels in port. If, as a custom, in any country, the practice of asylum prevails, and is tacitly or explicitly recognized by the local authorities in respect of legations, consulates, private dwellings, or vessels of another nationality, the exercise of the consuetudinary privilege by Americans could not be deemed exceptional; and if, under any circumstances, refugees find their way to places of shelter under the American flag, or in the domicile of American citizens, we should certainly expect such privileges as would be accorded were the like shelter under the flag or domicile of another power. But we claim no right or privilege of asylum; on the contrary, we discountenance it, especially when it may tend to obstruct the direct operation of law and justice.

Mr. Goutier next refers to the case of the insurgent who took refuge on the French bark Panama, and says that with the Department's instructions in view he would have been much perplexed had the vessel been American, for, says he, "it would have been my duty to allow the authorities to go on board and arrest that Haytian insurgent." And Mr. Goutier goes on to argue that if any other power claims the right of asylum in a given case, the United States could not forego a similar claim without loss of prestige.

As we understand the case of the Panama, the local authorities applied to the consul for permission to go on board and take the fugitive. In a case which recently arose in Cuba, where application was made to a consul to order the delivery of a person then on board an American vessel in port, who was accused of common crimes, and where the consul, after examining the charge against the person, ordered the captain to deliver him up, this Department held that the consul had no authority to order such surrender.

\* \* \* \* \*

It does not seem pertinent to the present instruction to discuss the ethics of humanity, to which Mr. Goutier adverts. Section 48 of the Department's lately issued personal instructions to its diplomatic agents

abroad is abundant evidence that the principles of common humanity, where arbitrary pursuit of merely political offenders is concerned, have not been overlooked in its ruling.

This instruction will enable you to answer Mr. Goutier, and you are requested to do so. It will also serve for your guidance in dealing with questions of this nature which may hereafter arise.

I am, sir, &c.,

T. F. BAYARD.

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[Inclosure in No. 29.]

*Mr. Goutier to Mr. Hunter.*

No. 757.]

UNITED STATES CONSULATE,  
*Cape Haytien, October 14, 1835.*

SIR: We have been instructed that the Government of the United States does not recognize the right of asylum in her consulates, and in the confidential memorandum sent last year to the German minister at Washington in relation to the views of our Government on the right of asylum in Hayti, it is plainly set forth that this right is not admitted.

If that Haytian insurgent who had taken refuge on board of the French bark *Panama*, as related in my No. 756 of the 12th instant, and the French vice-consul would not permit the authorities to go on board for the purpose of arresting him, had taken refuge on board of an American vessel, with these instructions in view, I would have been much perplexed, for it would have been my duty to allow the authorities to go on board and arrest that Haytian insurgent.

His doom would have been sealed! Still it seems to me that a consul of the United States ought to occupy in Hayti the same position as that occupied by the consuls of the other great powers. For such a difference in affording protection in this country would be looked upon by the ignorant masses as a mark of inferiority, and would give a certain prestige, even to consuls of second-class powers, not enjoyed by those of the American nation.

I know that the action of the French vice-consul in refusing to permit the authorities to go on board of the French bark *Panama* to arrest that Haytian insurgent, as well as the so-called right of asylum in Hayti, are in direct violation of international law and usage.

Still \* \* \* we cannot be surprised to find the great powers rather reluctant to relinquish a course of action which in some instances has been abused; but these abuses fade to insignificance when placed beside the countless good they have accomplished. \* \* \* I shall endeavor to keep my consulate free of refugees, without it be in exceptional cases where human life is wantonly destroyed. Then, as consul of a great Christian nation, obeying the supreme law, the law of humanity, I would be impelled to save as many lives as I possibly could.

I would be thankful should the Department be pleased to outline some general instructions, in order that I might act knowingly, especially should Haytians seek protection on board of American vessels in this port.

\* \* \* \* \*

I am, &c.,

STANISLAS GOUTIER,  
*United States Consul.*

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No. 282.

No. 67.]

*Mr. Thompson to Mr. Bayard.*

LEGATION OF THE UNITED STATES,  
*Port au Prince, Hayti, January 12, 1836. (Received January 30.)*

SIR: I have the honor, referring to the instructions contained in your dispatch No. 6, dated June 23, 1835, to transmit herewith the correspondence between this legation and the secretary of state of foreign relations of the Haytian Government pertaining to the excessive charges



of said Government on American sailing vessels. On August 13, 1885, I addressed the inclosed dispatch to Mr. St. Victor. The response of the honorable secretary of state of foreign relations, dated August 27, 1885, is also inclosed. You will please notice in said dispatch Mr. St. Victor is pleased to designate mine, a communication composed of unofficial and private counsel, "*conseil officieux et privé*." This I felt could not be admitted; therefore, I sent a second dispatch, under date of September 4, 1885, which is herein inclosed. I deemed it advisable in the dispatch, having fortunately about that time received a report from the honorable Secretary of the Treasury, wherein was stated the exemption of tonnage tax between Trinidad, British West Indies, and the United States, and the proclamation of President Cleveland to that effect, thus exhibiting to Mr. St. Victor proofs that these means of augmenting commerce had quite lately been appreciated.

In addition to these means I called upon Mr. St. Victor, and having had several discussions relative to the subject, eventually was pleased to find we agreed in many respects on the advantages that could be derived from a change, such as was advised; but he had fears that his people were not sufficiently up to that point of progress, although the particular point seemed to be owing to there being at present no merchant vessels whatever carrying the Haytian flag; the reciprocity, according to their view, becomes one-sided, and they would consequently lose the revenue now gained.

On the 23d ultimo I addressed a third dispatch. In response thereto I received, under cover of the 30th ultimo, the inclosed dispatch. Judging therefrom, I would presume after mature study, there may be at least a diminution made in some of these excessive charges. From inquiries I find the principal causes of complaint are the high tonnage dues, the water tax, and the unreasonable liabilities under which the vessel is held until the customs duties are paid on the cargo. The fact that steamers are allowed to enter, deposit their cargoes in lighters, then depart with no responsibility whatever, such cargoes being held in the custom-house until the consignee pays all duties thereon, only adds to the vexation, for as soon as the goods are landed from a sailing vessel the consignee may take them, but, as aforesaid, the vessel is held until the duties thereof are paid.

Regarding the water tax or fountain tax, it appears when the sum of \$10 was established by law as the price there was a pipe leading from the fountain to the custom-house wharf, and it simply necessitated the master of a vessel sending his boat with casks to receive as much water as he wished; but since a long time, at least ten years, the fountain and pipe have been destroyed; indeed scarcely any trace of either is in existence. Hence it is necessary either to send a boat to Bizeton, a village some three miles distant, where the water is taken from the river, or buy it from a water merchant; yet that fountain tax is still charged the same as if it was now standing. Therefore, unless you deem it proper to do otherwise, in the course of time, watching continually the tenor of discussions carried on by the Corps Législatif, I will, when I deem it the proper moment, again bring their attention to the hindrance to trade caused by such extreme charges, such unreasonable detentions, and endeavor to reach a favorable definitive conclusion.

I am, &c.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 67.]

*Mr. Thompson to Mr. St. Victor.*LEGATION OF THE UNITED STATES,  
*Port au Prince, Hayti, August 13, 1885.*

SIR: In looking over the annual report of shipping between the ports of Hayti and those of other countries it is seen that the major portion of importation by sailing vessels is done by those carrying the American flag, and even this is not what it should be. The amount of shipping between this port and the United States could be greatly augmented, thus adding to the resources here and making Port au Prince the principal commercial city of the West Indies. The officers of the new Administration in the United States are desirous of increasing the shipping all over the world, hence are anxious to propose any movement to enlarge such interest, thus raising the standard of international commercial intercourse. On the commerce of a country depend its riches; consequently I am advised by my Government, Mr. Minister, to call to the attention of your Government, through you, facts which, if removed, would certainly permit trade here to be done on a larger scale. It appears there are certain restrictions met with at this end of the voyage to American vessels sailing between here and the United States. For example, a vessel leaves America, making a quick passage, laden with cargo for Port au Prince and sundry ports of Hayti. The vessel stops first at this port and unloads that portion of the cargo belonging here. We will presume the vessel takes three days in unloading. When the master of that vessel unloads his cargo here his duty is done, yet that vessel is held here as security until the import duties are paid. The importer of the goods is the party to pay that duty. Then, after the goods have been landed and delivered, supervised by the Haytian customs officers, is it not causing a great delay to keep that vessel here, when she might, in the interval, have delivered all of her cargo at different ports and be preparing to bring more revenue to this country? for sometimes I understand vessels have been kept as long as fifteen days awaiting the convenience of the importer; therefore the utility of a quick voyage is lost by this delay. Should it not be here as elsewhere, when the master of the vessel delivers his cargo before the proper authorities his responsibility ceases? With regard to the tonnage tax in the United States the tax is 3 cents per ton per voyage, and after five voyages in one year that amount is not collected. In Hayti the tonnage tax of \$2 per ton is collectible every voyage; this, besides being extremely high, has no limit. Certainly this subject has escaped your notice. In the United States the citizens of each town are taxed a certain amount to pay for the water supplied for shipping purposes, while here in Hayti is the charge made of \$10 per voyage; and, I regret to say, those supplied with water are rare exceptions. The international custom in general being to permit vessels—not those in the coasting trade—after making the original entry, to proceed from port to port unloading and taking on cargo, without paying additional tonnage tax, it is hoped that such an arrangement can be made here. Now, Mr. Minister, I have tried to show you in as succinct a manner as possible certain remediable hindrances to trade here. My Government, in speaking of this matter, feel that it is simply necessary to point out these facts and you will concur with them that such has a hurtful effect on commerce. They believe, also, your keen sense of justice and desire for reciprocating all international courtesies, will cause you to perfect some more reasonable terms relative to American vessels. I would respectfully suggest to you, Mr. Minister, since under a certain act it is possible for the President of the United States to issue a proclamation concerning such matters, that an agreement be made between our respective Republics to repeal tonnage dues and other equivalent taxes, thus permitting a Haytian vessel in American ports to enjoy the same privileges as an American vessel itself, thus drawing still closer our commercial relations.

Accept, sir, &amp;c.,

JOHN E. W. THOMPSON.

[Inclosure 2 in No. 67.]

*Mr. St. Victor to Mr. Thompson.*

[Translation.]

DEPARTMENT OF STATE OF FOREIGN RELATIONS,  
*Port au Prince, August 27, 1885.*

MR. MINISTER: Your predecessor, the honorable Mr. Langston, in his dispatch of July 19 of last year, gave me his opinion on the facilities which in the interest of commerce between Hayti and the United States it would be necessary to grant to sailing vessels.

While answering him that my Government accepted the communication under the form of a non-official and private memorandum, since our legislators in their sovereignty had not yet decided on the modifications to be made in our custom laws, I nevertheless thanked him none the less for the interest which he thus manifested in the country.

In answer to your dispatch of August 13, which returns to the same question, with the addition of new modifications to our laws, I can but repeat to you what I said to Mr. Langston, and thank you warmly for the interest which you take in the progress of the maritime commerce of Hayti.

I will add, Mr. Minister, that all the questions which you present to me to-day have been, and still continue to be, the object of governmental studies; that the Haytian press even oftentimes occupied itself with, and that up to the present our legislators, sole sovereign judges in the matter, have not yet given any solution.

No agreement can be entered into between us before the modification of these laws in question.

When the moment arrives, my Government, which recognizes as well as yourself that the facilitating and the extension of the commercial relations would assure to the people a certain progress and a brilliant future will not fail to again bring to bear all its attention on these interesting economical measures.

Accept, &c.,

B. ST. VICTOR.

[Inclosure 3 in No. 67.]

*Mr. Thompson to Mr. St. Victor.*

LEGATION OF THE UNITED STATES,  
*Port au Prince, Hayti, September 4, 1885.*

SIR: I have the honor of acknowledging the receipt of your dispatch of the 27th ultimo in answer to mine relative to the excessive charges on merchant vessels sailing between this port and ports of the United States.

I cannot understand, Mr. Minister, why you should not consider such a communication official, notwithstanding its being sent with the kindly spirit that this legation ever hopes to reveal in its dispatches, I having, as stated in my dispatch of the 13th ultimo, particular instructions from my Government to bring these facts before those capable of changing such laws in this country.

Since my dispatch of the 13th ultimo I have received a report from the Treasury Department at Washington, showing me how the governing power of the island of Trinidad, British West Indies, seeing the increase of commerce naturally to arise from such an arrangement, has caused the exemption from tonnage tax, and the President of the United States has issued a proclamation concerning such taxation between the two countries.

I inclose herewith a copy of the dispatch from the Commissioner of the Bureau of Navigation and the President's proclamation. I am actuated in sending you these papers to show you how anxious the new administration in Washington is to raise the standard of commercial relations all over the world, not for their benefit to the detriment of others, but to the advantage of all commerce.

Hoping, therefore, that you will weigh this matter well, and seeing what immense advantages may result to the two countries, bring it to the attention of the legislative body, which, perhaps, in the press of other matters, may not have given it the consideration due to so important a subject, so that they may also see the necessity and advantage of removing taxation of vessels sailing between the United States and Hayti.

Accept, &c.,

JOHN E. W. THOMPSON.

[Inclosure 4 in No. 67.]

*Mr. Thompson to Mr. St. Victor.*

LEGATION OF THE UNITED STATES,

*Port au Prince, Hayti, December 23, 1885.*

SIR: I had the honor on August 13, 1885, in my No. 8, addressed to your Department, to call your attention to the excessive charges on merchant vessels sailing between the United States and Hayti.

Owing to your response I deemed it necessary to again write you on this subject in my No. 10, dated September 4, 1885. Since then I regret to say no answer whatever



has been received by me, although I have understood the question came up before the Corps Législatif. You may well understand, Mr. Minister, this subject is of great importance to the commercial relations of our respective countries, and certainly worthy of profound consideration before being decided upon contrary to the expectations of those who are anxious to augment the facilities of trade.

I am, sir, &c.,

JOHN E. W. THOMPSON.

[Inclosure 5 in No. 67.—Translation.]

*Mr. St. Victor to Mr. Thompson.*

DEPARTMENT OF STATE OF FOREIGN RELATIONS,  
*Port au Prince, December 30, 1855.*

MR. MINISTER: I have the honor to acknowledge the receipt of your two dispatches of September 4 and of 23d instant. Note has been taken of the two documents relative to tonnage dues, which the President of the United States, by virtue of the power with which he has been invested by a special law, has suspended in the ports of the United States for all vessels coming from Trinidad, the English Government having decreed beforehand a similar measure in regard to vessels coming from the United States to Trinidad.

I can believe, as you do, that this reciprocity, well understood, is of a nature to give to the commerce between these two countries a certain extension, and admit that the two flags, American and English, would profit therefrom; but until my Government weighs well the doubtful advantages to be gained by its flag from a like measure between the United States and Hayti, which will then decide it to propose the changes in its system of taxes to establish its financial equilibrium until the legislative corps decides thereon, the question of the taxes must remain under consideration, and I cannot make any engagements in regard thereto.

The question of the reduction of tonnage dues has been rejected during the last legislative session, I have the honor to remind you, and without speaking of the considerations which I have just exposed to you, we have to meditate well on the state of our conventional right before we decide in such matter.

While thanking you for your important communication I much regret, Mr. Minister, not being able to say at present, nor at what time nor in what sense, it will be decided.

Accept, &c.,

B. ST. VICTOR.

No. 283.

*Mr. Bayard to Mr. Thompson.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, February 12, 1856.*

SIR: I have received your No. 67, D. S., of the 12th ultimo, transmitting your correspondence with the foreign office on the commercial restrictions which formed the subject of my instruction No. 6 of the 23d of June last.

In your future communications with the minister of foreign affairs you should emphatically disabuse him of the error into which he has apparently fallen, that your representations to him were only unofficial and private advice for the advantage of the commercial prosperity of the Haytian Republic. It should be your endeavor to make him understand that you are instructed by your Government to call these matters to his urgent attention as unjust hardships inflicted on American commerce, some of which, it is believed, might be remedied without the delay incident to discussions and action in the legislature of Hayti. For instance, there would seem to be no reason why some other security could not be devised by the treasury for the payment of tonnage and other dues than

the actual detention of the vessel in port until such dues are paid—a course which, it is believed, is not resorted to by other nations.

There also cannot surely be any necessity for long deliberation as to whether the water, for which vessels pay a tax of \$10, should not be rendered accessible to vessels by means of a pipe from the fountain to the custom-house, as was the case when the tax was originally established, instead of ships being obliged, as at present, to send some three miles in boats for water, or purchase it of water merchants, in addition to paying the fountain tax.

It is of little or no use to suggest any policy of reciprocity, as long as there is no merchant marine belonging to Hayti frequenting our ports. The whole matter is one of justice towards foreign nations in general, and our own more especially, as having the largest share of the trade with Hayti, which it is hoped will be equitably settled without unnecessary delay or any possible loss to the interests of Hayti. Your report on the question is still awaited, and you are requested to procure and transmit to the Department a copy of the Haytian tariff and general regulations of the custom-house for its better information in this class of cases.

I am, &c.,

T. F. BAYARD.

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No. 284.

*Mr. Thompson to Mr. Bayard.*

No. 78.]

LEGATION OF THE UNITED STATES,

*Port au Prince, Hayti, March 6, 1886. (Received March 29.)*

SIR: In acknowledging receipt to-day of your No. 46 of the 12th ultimo, I have the honor, as instructed therein, to transmit herewith, under another cover, a copy of the Haytian tariff and general regulations of the custom house.

With regard to the report I was instructed to make in your No. 6 of June 23, 1885, I intended such to be given in the closing of my dispatch No. 67 of the 12th of January last, wherein, after conversations with many shipmasters and all of the American merchants interested in this subject, I was enabled to report the different causes of their complaint. I may continue, in conclusion, that the laws as contained in the tariff transmitted are rigorously enforced, and show equally well the unjust charges upon foreign vessels.

I have translated that part of the tariff which bears especially on shipping, which is found on pages 31 to 41 inclusive, omitting in the law of July 20, 1859, that part which relates to the internal custom-house administration and verification of merchandise. This translation is herewith transmitted.

If there should be any other points which may have escaped my attention, on receipt of instructions in the premises I will cheerfully make all further investigations, and report thereon as soon as possible.

I deem it worth while to inform you that the decree on the naturalization of merchant vessels on page 45 of the tariff has been annulled, because, among other reasons, of the failure, from impossibility on the part of such vessels, in carrying out the latter clause of Article 1, relating to the officers and crew.

I am, sir, &c.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 78.—Translation.]

*Law modifying articles 19, 21, 110, and 111 of the law of July 13, 1858, and the scale of pilotage, fountain, and signal dues.*

ARTICLE 1. All vessels that change from one port to another shall pay the following scale of dues :

## SCALE OF DUES.

|                                          |         |
|------------------------------------------|---------|
| For vessels of 100 tons and under.....   | \$25 00 |
| For vessels of 100 tons to 200 tons..... | 30 00   |
| For vessels of 200 tons to 300 tons..... | 35 00   |
| For vessels of 300 tons to 400 tons..... | 40 00   |
| For vessels of over 400 tons.....        | 50 00   |

ART. 2. At places where there are marine fountains for the use of vessels doing a foreign trade each vessel shall pay, in specie :

## FOUNTAIN DUES.

|                       |        |
|-----------------------|--------|
| For each vessel of—   |        |
| 15 to 50 tons .....   | \$2 00 |
| 51 to 100 tons .....  | 3 00   |
| 101 to 150 tons ..... | 4 50   |
| 151 to 250 tons ..... | 6 00   |
| 251 to 300 tons ..... | 7 50   |
| Above 300 tons .....  | 10 00  |

ART. 3. Apart from the pilotage, which shall be paid direct to the pilot, the commandant of the port shall receive of each vessel, whatsoever may be the tonnage, at the time of delivery of the pass-ticket, \$2.

## PILOTAGE DUES.

ART. 4. A pilotage due, of which one-half is to remain in the public treasury and the other half is to be paid direct to the pilot by the vessels, under the responsibility of their consignee, is established, as follows :

## FOR PORT AU PRINCE.

When the pilot boards a vessel outside and beyond the Grand Reefs, the vessel shall pay :

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$4 00 |
| 101 to 200 tons ..... | 8 00   |
| 201 to 300 tons ..... | 10 00  |
| 301 to 400 tons ..... | 12 00  |
| Above 400 tons .....  | 16 00  |

And when he shall have boarded her only inside of the Grand Reefs, about the Three Isles, the vessel shall pay :

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

## FOR CAPE HAYTIEN.

Vessels boarded by the pilot one league outside of Picolet shall pay :

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$4 00 |
| 101 to 200 tons ..... | 8 00   |
| 201 to 300 tons ..... | 10 00  |
| 301 to 400 tons ..... | 12 00  |
| Above 400 tons .....  | 16 00  |



When the pilot does not reach the vessel at a distance of one league from Picolet, the dues shall be:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 5 00   |
| 301 to 400 tons ..... | 6 00   |
| Above 400 tons .....  | 8 00   |

On leaving, vessels shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

#### FOR AUX CAYES.

Vessels boarded by the pilot outside and to the windward of La Folle shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$5 00 |
| 101 to 200 tons ..... | 10 00  |
| 201 to 300 tons ..... | 12 00  |
| 301 to 400 tons ..... | 16 00  |
| Above 400 tons .....  | 20 00  |

When they shall be boarded in Orange Bay, to the west of La Vache Island:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$3 00 |
| 101 to 200 tons ..... | 5 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

On leaving they shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

#### FOR GONAIVES.

Vessels boarded outside of Point La Pierre shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 3 00   |
| 201 to 300 tons ..... | 4 00   |
| 301 to 400 tons ..... | 5 00   |
| Above 400 tons .....  | 6 00   |

On leaving, vessels shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

#### FOR JACMEL.

Vessels boarded at the height of Baguette Bay shall pay:

For vessels of—

|                       |        |
|-----------------------|--------|
| 50 to 100 tons .....  | \$4 00 |
| 101 to 200 tons ..... | 8 00   |
| 201 to 300 tons ..... | 10 00  |
| 301 to 400 tons ..... | 12 00  |
| Above 400 tons .....  | 16 00  |

## Inside of the aforesaid point:

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

## FOR JEREMIE, ST. MARC, AQUIN, MIRAGOANE, AND PORT DE PAIX.

Vessels boarded by the pilot at one league outside shall pay:

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$1 50 |
| 101 to 200 tons ..... | 2 50   |
| 201 to 300 tons ..... | 3 50   |
| 301 to 400 tons ..... | 4 00   |
| Above 400 tons .....  | 5 00   |

On leaving, vessels shall pay:

|                       |        |
|-----------------------|--------|
| For vessels of—       |        |
| 50 to 100 tons .....  | \$2 00 |
| 101 to 200 tons ..... | 4 00   |
| 201 to 300 tons ..... | 6 00   |
| 301 to 400 tons ..... | 8 00   |
| Above 400 tons .....  | 10 00  |

A minute shall be drawn up for the purpose of certifying to the place where the pilot reaches the vessel and comes on board.

## SIGNAL DUES.

ART. 5. Where there are signal posts, each vessel shall pay 2 piasters through the consignee. This due shall be paid only when the vessel shall have been signaled in time for the pilot to reach her at the farthest point provided in the above-mentioned tariffs.

The half of this due belongs to the signaler; the other half shall be paid into the public funds.

This present law annuls, &c.

*Law fixing dues for sanitary visits of September 22, 1874.*

ARTICLE 1. A visit due, of which half remains in the public treasury, and the other half is to be paid directly to the doctors, named in the different ports of the Republic to examine the crews and to oversee the execution of the regulations coming from the secretary of state of interior, is established as follows:

|                                            |         |
|--------------------------------------------|---------|
| For all vessels of—                        |         |
| 301 tons and over .....                    | \$16 00 |
| 201 tons to 300 .....                      | 12 00   |
| 200 tons and under .....                   | 8 00    |
| For each steamer of whatever tonnage ..... | 25 00   |

*Law modifying the law of July 13, 1858, on the administration and direction of the custom-houses of the Republic of Hayti of the 20th of July, 1859.*

ARTICLE 1. The dues for tonnage, changing ports, and all others bearing on the hull of the vessel shall be paid into the public treasury by the consignees of the vessels, before they can be cleared for a foreign port, or for any one of the other open ports of the country. The captains and their vessels are liable to be detained in guaranty for these dues as being conjointly responsible with the consignees.

ART. 2. There shall also be paid over to the public treasury by the consignee, at the time of clearing his vessel, the exportation duties established on the production of the soil forming the return cargo of the vessel.

The consignee is personally responsible for the said exportation duties, and this conjointly with the different shippers, but each one of them only for his share forming the cargo.

ART. 3. The duties bearing on the merchandise coming from foreign countries shall be paid in full into the public treasury by the consignees of the vessels which shall have imported them, after the verification and as soon as the general account of these duties drawn up by the custom-house shall have been ordered for receipt by the administrator of finances.

The consignee is likewise personally responsible for these duties, and that conjointly with the different importers of the merchandise forming the cargo imported, but each one of them only for his part of the cargo.

ART. 4. The directors and other custom-house agents of the Republic, as well as the controllers, shall proceed without any loss of time to verify the cargo imported, and the consignees or their representatives are obliged to comply at once with the requisitions which may be made on them in that regard by the said functionaries.

The six articles following treat on the internal custom-house administration and the verification of merchandise.

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*Law on the payment of duties, fiscal revenues, of the 10th of December, 1861, promulgated December 28, 1862, modifying law of July 20, 1859.*

Whereas in the interest of a prompt collection of duties, fiscal revenues, and to cut short abuses prejudicial to the public service, it is necessary to modify Articles 1, 2, and 3 of the law of July 20, 1859, on the administration and direction of the custom-houses, and by the advice of the council of the secretaries of state has proposed and the legislative body has enacted the following law:

ARTICLE 1. Dues for tonnage, changing ports, and all others bearing on the hull of the vessel, shall be paid into the public treasury by the consignees of the vessels before they can be cleared for a foreign port or for one of the open ports of the Republic.

ART. 2. Shall likewise be paid into the public treasury by the consignee, at the time of clearing his vessel, the exportation duties established on the productions of the soil forming the return cargo of the said vessel.

The consignee is personally responsible both for the dues affecting the hull of the vessel and for the amount of the export duties.

ART. 3. The duties affecting merchandise coming from foreign countries shall be paid in full into the public treasury by the consignees of the vessels which shall have imported them, after the verification of the said merchandise, and as soon as the general account of these duties drawn up by the custom-house shall have been audited for receipt by the administrator of finances.

This account shall be itemized, following the verifications, so that forty-eight hours after the complete verification of a cargo the said account shall be established and forwarded to the administrator of finances, on the responsibility of the director of the customs.

As soon as this account is received, and within a period of not more than twice forty-eight hours, the administrator of finances shall have the account verified, draw up the bills of receipt relative thereto, and notify the special treasurer, and invite the consignees to pay over to the public treasury the entire amount due to the State.

ART. 4. The consignees are personally responsible for the duties on the merchandise composing the cargo imported by the vessels consigned to them. They can be held bound to deposit in the custom-house one-quarter of the merchandise verified, or furnish good and valid security as guarantee for the duties to the state until the payment of the import duties.

ART. 5. The consignees, being personally responsible for the duties on the merchandise forming the cargo imported, are authorized to take toward the claimants such measures as may be right for the safeguard of their interest, and even, if necessary, require the detention in the custom-house of the merchandise forming the portion of that belonging to each of the said claimants of the cargo.

The director of the custom-house should not deliver the merchandise to the claimants except on the written authorization of the consignee.

ART. 6. The several importers of merchandise by steam packet-boats, shall be bound for the formalities to be filled at the custom-house and the payment of the duties on the said merchandise to choose a consignee who shall be responsible to the administrator of finances. If they fail to agree in this choice, the administrator of finances shall designate the consignee.

ART. 7. In case of a refusal on the part of the consignee designated, or of his non-acceptance by the importers, the merchandise in question cannot be taken from the



custom-house until after payment into the public funds of the amount of the duties on them, and on sight of a receipt from the treasury.

The sums due shall then be received by the treasurer on an order of receipt separately drawn up by the administrator of finances.

ART. 8. A delay of eight days is granted from the forwarding of the account of the customs, for the payment of the import duties, and taking away of the merchandise deposited in guarantee; after which delay the administrator of finances is authorized to have sold at public auction, in the presence of the parties interested, and for the account of the debtor, all or a part of the merchandise deposited to cover the fiscal dues, and that none the less to the prejudice of future prosecutions if the deposit ordered by Article 4 was insufficient.

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*Decree of April 30, 1869.*

ARTICLE 1. After the 1st of June, 1869, no vessel can be cleared for one of the ports of the Republic if all the duties, importation as well as exportation, have not been entirely paid.

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*Law fixing the tonnage dues to be paid by steamers of October, 1876.*

ARTICLE 1. From the 1st of January, 1877, there shall be levied a due of 50 cents per ton of merchandise unloaded by steamers touching at the open ports of the Republic.

ART. 2. The tonnage subjected to the present law shall be determined by means of the weights and measures which served to regulate the freight.

For this purpose the mention in detail of this freight, duly signed by the competent authority on board, should figure on the bills of lading which accompany the manifest remitted by these steamers to the custom-house director, under penalty of a fine of \$200 against the said agents.

ART. 3. The ton weight is estimated at 2,000 pounds gross weight and the volume at 42 cubic feet.

ART. 4. The bills of lading and invoices of merchandises, shipped on steamers destined for Hayti, should mention the gross weight of such merchandise or of their volume according to the case, respectively.

The want of fulfillment of this formality, as well as all mention recognized as false, give cause against the importation of the merchandise to the imposition of thrice the amount of the tonnage dues.

ART. 5. The accounts and ordinances for the collection of the present tonnage dues shall be drawn up against the agents of the steamers.

ART. 6. The present law annuls all the laws or provisions of law which may be contrary thereto.

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No. 285.

*Mr. Bayard to Mr. Thompson.*

No. 51.]

DEPARTMENT OF STATE,  
Washington, May 27, 1886.

SIR: I inclose a copy of a dispatch from Mr. Goutier, our consul at Cape Haytien, stating that the Haytian Government has prohibited the importation of kerosene oil in violation of Article XIII of our treaty with Hayti.

It is desirable to know the exact text of the decree prohibiting the importation of kerosene, and whether the prohibition is geographical against the United States, leaving Russian or Egyptian petroleum free to enter Hayti, or general against all petroleum. In either case the measure should be made the ground of remonstrance, and, in the first

instance, based on the express stipulation of treaty. As petroleum is almost exclusively an American export, any restriction of the traffic is, in any event, an unfriendly discrimination against the United States, and could not fail to have disastrous results upon the intimate intercourse which has been built up during so many years and which has proved so beneficial to both countries.

You will first make certain of the facts, and, if they warrant, will demonstrate courteously but firmly.

I am, &c.,

T. F. BAYARD.

[Inclosure 1 in No. 51.]

*Mr. Goutier to Mr. Porter.*

No. 795.]

UNITED STATES CONSULATE,  
*Cape Haytien, April 23, 1886.*

SIR: The Haytian Government has prohibited the importation of kerosene oil.

As a great deal of this oil is used in Hayti, and it is *imported only from the United States*, I have taken the liberty of calling the Department's attention to this act of the Haytian Government, which is in direct violation of Article XIII of our treaty with Hayti:

"No prohibition shall be imposed on the importation of any article, the growth, produce, or manufacture of the United States, or their fisheries, from or to the ports of the United States or Hayti, which shall not equally extend to any other foreign country."

The inclosed statement will show that 460,520 gallons of kerosene oil have been imported from the United States to Cape Haytien alone during nine years ending December 31, 1885.

A line of steamers under the French flag has been established for the coasting trade.

According to the spirit, if not the letter, of Article XII of our treaty with Hayti, the coasting trade should be carried on in Haytian vessels. Such being the case, under Article II of said treaty Americans can likewise engage in the Haytian coasting trade under this most-favored nation clause.

I am,

STANISLAS GOUTIER,  
*United States Consul.*

[Inclosure 2 in No. 51.]

*Statement showing the quantity of kerosene oil imported from the United States to Cape Haytien during nine years ending December 31, 1885.*

|            | Gallons. |
|------------|----------|
| 1877 ..... | 30,710   |
| 1878 ..... | 57,270   |
| 1879 ..... | 62,120   |
| 1880 ..... | 58,670   |
| 1881 ..... | 81,630   |
| 1882 ..... | 68,930   |
| 1883 ..... | 44,870   |
| 1884 ..... | 24,730   |
| 1885 ..... | 32,490   |
|            | 460,520  |

CAPE HAYTIEN, *April 23, 1886.*

STANISLAS GOUTIER.

No: 286.

*Mr. Thompson to Mr. Bayard.*

No. 89.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Hayti, June 23, 1886. (Received July 8.)*

SIR: On Thursday, January 21, 1886, the official journal of the Haytian Government published the law, inclosure 1, which, you will observe, is to the effect that forty days after such promulgation the importation of "explosive kerosene oil" would be prohibited.

Considering at that time this law rather exacting, as I believed all kerosene to be more or less explosive, and knowing the stoppage to such traffic would be detrimental to our trade and a source of vexation, as we are all obliged to burn it, and wondering what substitute would be used, I interrogated one well versed and interested in the passage of the law aforementioned, and found that although it was not expressed in the text thereof, it was generally understood by commerce that it was applicable to kerosene under 150° Fahrenheit test; therefore I deemed it unworthy burdening the Department with such information as there could be found no cause for objecting to the inadmissibility of the common oils of greater explosive quality, that had already caused so many disasters, as is hereinafter shown, the Haytian consul at New York having investigated the matter and made the report contained in "extract," inclosure 2. In March last the minister of finance inquired of Mr. Roumain, the professor of chemistry at the School of Medicine, as to the degree of kerosene preferable for entry. A copy of the letter is here inclosed, and also the reply thereto.

Since receiving your dispatch No. 51, of May 27 last, I have obtained the greater portion of the correspondence on this petroleum agitation from Mr. Roumain, who was the first one to be interested, and who caused such a petition as is here inclosed to go before the cabinet, the Senate, and the House of Representatives.

I am informed by the minister of finance that the consuls of Hayti have been instructed not to sign, after a reasonable lapse of time, the invoices of kerosene oil under a test of 150° Fahrenheit for importation into this Republic, and I have a copy of this dispatch to the consul-general of Hayti at New York containing such instructions.

Understanding that the major portion of houses in this city, as in all the cities of Hayti, are built of pitch-pine lumber, so easily ignited, I am of the belief you will agree with me that this law is reasonable, with an estimable object in view, and that it was unnecessary before to call your attention thereto, as no hindrance was caused to our trade, rather to the contrary, as the exportation of a superior article only will bring a higher price to the shipper. The importation thereof is entirely from the United States, there is no augmentation of the duties, and the necessity of petroleum is unquestionable.

I have, &amp;c.,

JOHN E. W. THOMPSON.



[Inclosure 1 in No. 89.—Translation.]

## LAW.

Considering that the usage of kerosene oil has given cause to frequent fires and other regrettable accidents:

Using the privilege which the 79th article of the constitution gives to the House of Representatives of the people, has proposed, and the legislative body has rendered of urgency, the following law:

ART. 1. Is and remains prohibited, the importation, forty days after the promulgation of the present law, explosive kerosene oil.

ART. 2. Can only be imported into the country, paying the same custom-house dues, oil for lighting purposes freed from all impurities.

ART. 3. All violations of these present provisions of article 1 shall be liable to penalties fixed by the law on the administration and direction of the custom-house.

ART. 4. The present law abrogates all the laws or provisions which are contrary thereto, and shall be executed at the diligence of the Secretary of State of Finance and of Commerce.

Given at the House of Representatives, October 16, 1885, the 82d year of the independence.

The President of the House,

F. DUCASSE.

The Secretaries,

JH. OSSON.  
POISSON.

Given at the National House, the 19th of October, 1885, the 82d year of the independence.

The President of the Senate,

B. MAIGNAN.

The Secretaries,

DÉSINOR St. Ls. ALEXANDRE.  
S. M. PIERRE.

In the name of the Republic.

The President of Hayti orders that the above law of the Legislative Corps be vested with the seal of the Republic, printed, published, and executed.

Given at the National Palace of Port au Prince, October 26, 1885, the 82d year of the independence.

SALOMON.

By the President:

The Secretary of State of Finance and of Commerce,

C. FOUCHARD.

[Inclosure 2 in No. 89.—Translation.]

*Mr. Fouchard to Mr. Roumain.*

REPUBLIC OF HAYTI,  
PORT AU PRINCE, *March 6, 1886.*

MY DEAR FELLOW-CITIZEN: I have the advantage of placing before your eyes a passage extracted from a letter that Mr. Bassett, Haytian consul at New York, addressed to me, relative to kerosene oil.

I would be thankful to you, my dear fellow-citizen, if you would settle for me the question of at what degree must the oil permitted to enter this country be without violating the law which prohibits the importation of such oils. I await your information to give instructions on this subject to the Haytian consul at New York.

Please accept, my dear fellow-citizen, the assurance of my highest consideration.

C. FOUCHARD.

[Inclosure in inclosure 2.]

*Passage extracted from the letter of Mr. Bassett.*

\* \* \* \* \*

Several savants whom I have consulted in this regard have assured me that, in the strict application of the word, all mineral oils are more or less explosive, but that modern science furnishes means to purify these oils in a manner so as to almost prevent all the dangers of explosion that threatens persons who use it daily.

The kind of "kerosene" which they have up to the present imported into Hayti is refined only up to 110 degrees Fahrenheit. It is beyond all doubt that it is more or less dangerous.

There are, besides, among the lighting oils in general and common usage:

- (1) Calcium-light oil, refined at 130 degrees.
- (2) Water-white oil, refined at 150 degrees.
- (3) Astral oil (Pratt's), refined at 150 degrees.
- (4) Luz diamante, refined at 170 degrees.
- (5) Mineral-sperm oil, which is composed of half mineral oil and half whale oil.

This explained, I think that we should not lose sight of the effect that might be produced on our population by the augmentation of the price of these oils which the new law forcibly causes.

If we calculate the price of these oils, taken in quantities of two hundred boxes, we will arrive at the following results:

- (1) Kerosene, 110 degrees, 9 cents per gallon.
- (2) Calcium-light oil, 130 degrees, 9½ cents per gallon.
- (3) Water-white oil, 150 degrees, 11½ cents per gallon.
- (4) Astral oil (Pratt's), 150 degrees, 14 to 16 cents per gallon, according to form of package.
- (5) Luz diamante, 170 degrees, 21 to 23 cents per gallon.
- (6) Mineral-sperm oil, 25 cents per gallon.

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[Inclosure 3 in No. 89.—Translation.]

*Mr. Roumain to Mr. Fouchard.*

PORT AU PRINCE, March 8, 1886.

*To the Secretary of State of Finances and of Commerce.*

MR. SECRETARY OF STATE: I received at this moment your letter of the 6th instant, and hasten to give the information that you have kindly asked of me.

I am very happy that the savants consulted by the Haytian consul at New York have declared to be dangerous the kind of oils imported up to the present in Hayti, and I find in that declaration the satisfactory sanction of the facts and experiments that I have had the honor of producing before you in the conferences on petroleum.

In my opinion, the petroleum oil (kerosene) destined for lighting purposes, *under 150 degrees Fahrenheit, should not be admitted*, and the consul should refuse his *visa* to all invoices having such oils.

It is evident, Mr. Secretary of State, that the oil at 170 degrees would be preferable, because very naturally it approaches more to the object to be attained, dispersing the frequent causes of fatal explosions. The difference in the prices between the oil at 150 and 170 degrees Fahrenheit are not so considerable that we should not be tempted to make the latter our normal, legal petroleum.

The "Luz diamante," the No. 5 of enumeration, at 170 degrees Fahrenheit, costs, according to your information, very certain, in tins of 5 gallons, 18 cents per gallon; in tins of 2 gallons, 23½ cents per gallon; in cans of 1 gallon, 26½ per gallon.

And remembering that it is especially in tins of 5 gallons that these oils are generally imported, we find, comparing the prices with those of your letter, a difference of 3½ cents per gallon between Astral oil at 150 degrees Fahrenheit and "Luz diamante" at 170 degrees Fahrenheit, a difference which is largely compensated by the suppression of the explosions and of the many disasters that it draws in its train.

I profit by this occasion to ask if your Department would permit me to offer to it an apparatus which is used in proving and the verification of petroleum oils, and which will permit the custom-house to easily ascertain exactly the degree of purity of an imported oil?

If you consent to accept the entirely disinterested offer that I make, and which has for object only to arm you with the means for the serious execution of the new law on petroleum—should you consent, please send for the little apparatus, which is patented in the United States for this purpose.

In resuming, Mr. Secretary of State, admit no oil under 150 degrees Fahrenheit, and give the preference to oils at 170 degrees.

If you think that I can be useful to you in the severe execution of this law—if the analysis, the proving of a suspected oil, even of all the oil imported, appear to you necessary, please without hesitation dispose and without fear of having to pay.

Your all-respectful servant,

E. ROUMAIN

[Inclosure 4 in No. 89.—Translation.]

PORT AU PRINCE, *September 2, 1885.**To the House of Deputies :*

DEPUTIES : The medical school, the central medical jury of the Republic, the common council of Port au Prince, moved by the grave and serious dangers to which inferior kerosene, to be found in such great abundance in the commerce of our place, exposes incessantly ; dangers from which arise, clearly and unfortunately, the frightful accidents which strike without relaxation, since some twenty years, innumerable families in the midst of our populations ; dangers which the medical school, too, believe to be its duty to call attention to by numerous demonstrative experiments to all those who had the kindness to honor with their presence the conferences of August 9 last. The school of medicine and all the signers of the present petition come respectfully to beg you again to have the indulgence, in your perceptible solicitude for all that is of common interest, to kindly turn your high and serious attention to the petroleum question, actively agitated a few days past.

We are all convinced with yourselves that the accidents, of which the sad consequences cannot be foreseen, but of which we may perhaps form an idea from the John Hepburn's fire, occasioned by the explosion of a lamp filled with inferior kerosene, from the fire of April 27, 1878, of the Rue Fronts Forts, from the fire of July 12, 1881, and from the many other accidents, with a fatal result, which have desolated, isolated, scattered families, of which the general enumeration would doubtless abuse your kind patience.

We are convinced of the urgency of prohibiting entirely this inferior kerosene and all kerosene which does not answer to the indications and the lawful demands of the medical jury, published by order of the secretary of state of interior in the official journal of the 8th instant. We would beg you to quickly, and we beseech you instantly, to have the kindness to receive favorably our petition to have decreed officially the absolute prohibition of this murderous product, so frequently the cause of many heaps of ruin, of many painful souvenirs.

By the exclusive importation of goods "not explosive in our lamps" you will give more guaranty to the general well-being, to the fortune, to the public edifices, to all interested to yours also in consequence, for these common interests are truly yours.

Filled with confidence in your coming decision, all our population will ever preserve the remembrance, and to which our names will be attached, we have the honor to beg you to believe us,

Your all-respectful and obliged servants,

DR. DÉSERET,

*Director of Medical School.*

THE COMMON COUNCIL OF PORT AU PRINCE.

CH. MONPLAISER,

*Director of the Custom House.*

CHRISPIN JEUNE,

*Inspector.*

And other signatures.

ITALY.

No. 287.

*Mr. Bayard to Mr. Stallo.*

[Telegram.]

WASHINGTON, *April 9, 1886.*

Mr. Stallo is informed by Mr. Bayard that it is his desire that he should attend the conference for the protection of industrial property to be held at Rome on April 29, 1886. He is instructed to state that his presence is merely consultative and wholly *ad referendum*.



No. 288.

*Mr. Stallo to Mr. Bayard.*

No. 69.]

LEGATION OF THE UNITED STATES,  
*Rome, Italy, June 19, 1886.* (Received July 3.)

SIR : I have the honor to report that, in obedience to your telegraphic instruction of the 9th April, 1886, I have attended the International Convention for the Protection of Industrial Property, held in Rome from the 30th of April to the 11th of May, 1886. I have withheld my report up to the present time because I have just come into possession of the minutes of the conference, which had to be submitted to its several members before it was finally printed.

The conference was attended by representatives of Belgium, Brazil, Spain, France, Great Britain, Italy, Norway and Sweden, the Netherlands, Portugal, Servia, Switzerland, and Tunis.

These countries, with the exception of Great Britain, had become members of an International Union for the Protection of Industrial Property by virtue of articles of Union agreed upon in Paris on March 20, 1883, Great Britain having acceded to this Union in 1884. The conference was also attended by representatives of the German Empire, Luxembourg, Mexico, Paraguay, Roumania, and Uruguay, and the United States of America, all of whom, like myself, appeared solely for the purpose of taking note of the proceedings of the conference and reporting to their respective Governments.

The articles of the Union adopted on the 20th of March, 1883, at Paris, are set forth in the pamphlet which I herewith transmit. The objects of the Union are stated in the second of these articles, which provides that "the subjects or citizens of each of the contracting states shall enjoy, in all the other states of the Union, in respect of patents, industrial models or designs, trade-marks, and commercial names, all the advantages which are actually conferred, or may be conferred hereafter, upon the subjects or citizens of any of these states by their respective laws, so that they shall have the same protection and the same legal recourse against all infringements of their rights (enjoyed by the subjects or citizens of any state) on condition of their compliance with the formalities imposed upon such subjects or citizens by the internal legislation of each state"; and in the third article, which provides that the same rights and privileges shall be extended to the subjects or citizens of states not members of the Union who have a domicile or industrial or commercial establishment on the territory of one of the states of the Union.

Among the other noteworthy articles is Article 5, providing "that as a condition precedent to the enjoyment of patent rights in any of the states of the Union, the owner of the patent must avail himself of it (*l'exploiter*) in conformity with the laws of the country into which the patented articles are introduced."

And also Article 9, relating to the seizure of manufactured articles or articles of commerce bearing fraudulent trade-marks.

The present conference at Rome was held in compliance with Article 14, which provided that the convention formed at Paris in 1883 should be subject to periodical revision, and that the next conference should be held in Rome.

Before the meeting of the conference a number of amendments to the original articles were submitted to the members by the representatives of Belgium, France, Great Britain, and Switzerland.

Several of these amendments were adopted by the conference, but only two of them appear to me to be worthy of note.

The first of them (an amendment to Article 5) is in these words:

Each country is to determine for itself the sense of the term "exploiter."

During the course of the discussion it became evident that the object of the French representatives, by whom the amendment was proposed, was to limit the enjoyment of patent and trade-mark rights to those objects or articles actually manufactured in France, in conformity with the construction of the legal phrase "exploiter," as repeatedly given by the French tribunals. It is not without significance that England voted with France for the adoption of this amendment.

Another noteworthy amendment is that to Article 10, relating to the seizure of articles bearing fraudulent trade-marks, and especially the latter part of this amendment, which is to the effect that trade-marks shall not be considered fraudulent when it appears that they have been adopted with the consent of the manufacturer whose name is affixed to the manufactured product.

It is hardly necessary to say that both of these amendments were adopted in the interest of "home industries," so called, and, as was justly observed by Mr. Monzilli, who strongly protested against these amendments in the name of the Italian Government, were in derogation of the objects for which the Union was formed.

I do not deem it necessary or proper to make any further comments upon the proceedings of the conference, but content myself with the observation that any State or country not yet a member of the Union has the right to join it by simply notifying the Swiss Government, and through it the Governments of all the other states, of its intention to do so, and that any of the States forming part of the Union may withdraw from it upon a year's notice.

I announced to the conference at its first regular session, on April 30, 1886, that I attended it solely *ad referendum*, and that I signed the minutes upon the express declaration of the President that this signature imported nothing more than a certificate of their accuracy.

I have, &c.,

J. B. STALLO.

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[Inclosure in No. 69.—Translation.]

*Convention for the protection of industrial property, made at Paris, March 20, 1883, between Belgium, Brazil, Spain, France, Guatemala, Italy, The Netherlands, Portugal, Salvador, Servia, and Switzerland.*

His Majesty the King of the Belgians; His Majesty the Emperor of Brazil; His Majesty the King of Spain; The President of the French Republic; The President of the Republic of Guatemala; His Majesty the King of Italy; His Majesty the King of the Netherlands; His Majesty the King of Portugal and the Algarves; the President of the Republic of Salvador; His Majesty the King of Servia; the Federal Council of the Swiss Confederation;

Equally animated by the desire to assure, by common accord, a complete and efficacious protection to the industry and commerce of the subjects of their respective states, and to contribute to the safeguard of the rights of inventors, and to the loyalty of commercial transactions, have resolved to conclude a convention to, that effect, and have named as their Plenipotentiaries the following:

*His Majesty the King of the Belgians:* Baron Beyens, Grand Officer of His Royal Order of Léopold, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

*His Majesty the Emperor of Brazil:* M. Jules Constant, Count de Villeneuve, Member of the Council of His Majesty, His Envoy Extraordinary and Minister Plenipo-

tentiary near His Majesty the King of the Belgians, Commander of the Order of Christ, Officer of His Order of the Rose, Knight of the Legion of Honor, etc.;

*His Majesty the King of Spain*: His Excellency the Duke of Fernan-Núñez, de Montellano, and del Arco, Count de Cervellon, Marquis of Almonacir, Grandee of Spain of the 1st Class, Knight of the distinguished Order of the Golden Fleece, Grand Cross of the Order of Charles III, Knight of Calatrava, Grand Cross of the Legion of Honor, etc., Senator of the Kingdom, His Ambassador Extraordinary and Plenipotentiary at Paris;

*The President of the French Republic*: Mr. Paul Challemeil-Lacour, Senator, Minister of Foreign Affairs; Mr. Hérison, Deputy, Minister of Commerce; Mr. Charles Jagerschmidt, Minister Plenipotentiary of 1st Class, Officer of the National Order of the Legion of Honor.

*The President of the Republic of Guatemala*: Mr. Crisanto Medina, Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

*His Majesty the King of Italy*: Mr. Constantin Ressiman, Commander of His Orders of St. Maurice and St. Lazarus, and of the Crown of Italy, Commander of the Legion of Honor, etc., Counsellor of the Embassy of Italy at Paris;

*His Majesty the King of the Netherlands*: Baron de Zuylen de Nyevelt, Commander of His Order of the Lion of Netherlands, Grand Cross of His Grand Ducal Order of the Oaken Crown and the Golden Lion of Nassau, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

*His Majesty the King of Portugal and the Algarves*: M. José da Silva Mendes Leal, Counsellor of State, Peer of the Kingdom, Minister and Honorary Secretary of State, Grand Cross of the Order of St. James, Knight of the Order of the Tower and of the Sword of Portugal, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Fernand de Azevedo, Officer of the Legion of Honor, etc., First Secretary of the Legation of Portugal at Paris;

*The President of the Republic of Salvador*: Mr. Torres-Cañedo, Corresponding Member of the Institute of France, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

*His Majesty the King of Servia*: Mr. Sina M. Marinovitch, Chargé d'Affaires ad interim of Servia, Knight of the Royal Order of Takovo, etc.;

And the *Federal Council of the Swiss Confederation*: Mr. Charles Edward Lardy, its Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. J. Weibel, Engineer at Geneva, President of the Swiss Section of the permanent Commission for the protection of Industrial Property.

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

#### ARTICLE 1.

The Governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Servia and of Switzerland, have constituted themselves into a state of Union for the protection of Industrial Property.

#### ARTICLE 2.

The subjects or citizens of each of the contracting States shall enjoy, in all the other States of the Union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as these latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each State.

#### ARTICLE 3.

Are assimilated to the subjects or citizens of the contracting States, the subjects or citizens of States, not forming part of the Union, who are domiciled or have industrial or commercial establishments upon the territory of one of the States of the Union.

#### ARTICLE 4.

Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter determined.



In consequence, the deposit subsequently made in one of the other States of the Union, before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working by a third party, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be six months for patents of invention and three months for designs or industrial models, as well as for trade or commercial marks. They shall be augmented by one month for countries beyond the seas.

#### ARTICLE 5.

The introduction by the patentee into countries where the patent has been granted, of articles manufactured in any other of the States of the Union, shall not entail forfeiture.

The patentee, however, shall be subject to the obligation of working his patent conformably to the laws of the country into which he has introduced the patented articles.

#### ARTICLE 6.

Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the Union.

Shall be considered as country of origin, the country where the depositor has his principal establishment.

If this principal establishment is not situated in one of the countries of the Union, shall be considered as country of origin that to which the depositor belongs.

The deposit may be refused, if the object, for which it is asked, is considered contrary to morals and to public order.

#### ARTICLE 7.

The nature of the production upon which the trade or commercial mark is to be affixed cannot in any case, be an obstacle to the deposit of the mark.

#### ARTICLE 8.

The commercial name shall be protected in all the countries of the Union without obligation of deposit, whether it forms part or not, of a trade or commercial mark.

#### ARTICLE 9.

Every production bearing, unlawfully, a trade or commercial mark, or a commercial name, may be seized upon importation into those of the States of the Union in which such mark or such commercial name has a right to legal protection.

The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each State.

#### ARTICLE 10.

The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every manufacturer or trader engaged in the manufacture or sale of this production, when established in the locality falsely indicated as the place of export.

#### ARTICLE 11.

The High Contracting parties engage between themselves to accord a temporary protection to patentable inventions, to industrial designs or models as well as to trade or commercial marks for the productions, which may figure at official or officially recognized International Exhibitions.

#### ARTICLE 12.

Each one of the High Contracting parties engages to establish a special service of Industrial Property and a Central Dépôt, for giving information to the public, concerning patents of invention, industrial designs or models and trade or commercial marks.

## ARTICLE 13.

An International Office shall be organized under the title of "International Bureau of the Union for the Protection of Industrial Property."

This Bureau, the cost of which shall be supported by the Governments of all the contracting States, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its supervision. Its powers shall be determined by common accord between the States of the Union.

## ARTICLE 14.

The present convention shall be submitted to periodical revisions for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object, Conferences shall take place successively in one of the contracting States between the delegates of said States.

The next meeting shall take place in 1885 at Rome.

## ARTICLE 15.

It is understood that the High Contracting parties respectively reserve the right to make, separately, between themselves, special arrangements for the protection of industrial property so far as these arrangements shall not interfere with the provisions of the present convention.

## ARTICLE 16.

The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey, of full right, accession to all the clauses and admission to all the advantages stipulated by the present convention.

## ARTICLE 17.

The execution of the reciprocal engagements contained in the present convention is subordinated in so far as needful, to the accomplishment of the formalities and rules established by the Constitutional laws of such of the High Contracting parties as are bound to ask the application thereof, which they agree to do within the shortest delay possible.

## ARTICLE 18.

The present convention shall be put into execution within a month after exchange of ratifications, and shall remain in force during a period of time not determined, until the expiration of one year from the day upon which the denunciation shall be made.

This denunciation shall be addressed to the Government empowered to receive adhesions. It shall only produce its effect as regards the State making it, the convention remaining executory for the other contracting parties.

## ARTICLE 19.

The present Convention shall be ratified and the ratifications shall be exchanged at Paris, within the period of one year at the latest.

In witness whereof the respective Plenipotentiaries have signed it and affixed to it their seals.

Done at Paris the 20th of March, 1883.\*

[SEAL.] (Signed)

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BEYENS.  
VILLENEUVE  
DUC DE FERNAN-NUÑEZ.  
P. CHALLEMEL-LACOUR.  
CH. HÉRISSON.  
CH. JAGERSCHMIDT.  
CRISANTO MEDINA.  
RESSMAN.  
BARON DE ZUYLEN DE NYEVELT.  
JOSÉ DA SILVA MENDES LEAL.  
F. D'AZEVEDO.  
J. M. TORRES-CAÍCEDO.  
SIMA M. MARINOVITCH.  
LARDY.  
J. WEIBEL.

## FINAL PROTOCOL.

On proceeding to the signature of the convention concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland, for the protection of industrial property, the undersigned plenipotentiaries have agreed on the following:

(1) The words *industrial property* are to be understood in their widest acceptance, in the sense that they apply not only to the productions of industry properly so called, but equally to the productions of agriculture (wines, grains, fruits, cattle, &c.) and to mineral productions used in commerce (mineral waters, &c.).

(2) Under the name *patents of invention* are included the various classes of industrial patents granted by the laws of the contracting states, such as patents of importation, patents of improvement, &c.

(3) It is understood that the final provision of Article 2 of the convention shall in no respect infringe upon the laws of each of the contracting states, so far as concerns the procedure before the courts and the competence of the said courts.

(4) Paragraph 1 of Article 6 is to be understood in the sense that no trade or commercial mark shall be excluded from protection, in one of the states of the Union, by the mere fact that it may not satisfy, in respect to the signs composing it, the conditions of the laws of this state, provided that it does satisfy, in this regard, the laws of the country of origin, and that it has been in this latter country, duly deposited. Saving this exception which concerns only the form of the mark, and under reservation of the provisions of the other articles of the convention, the domestic legislation of each of the states shall receive its due application.

In order to avoid all misinterpretation, it is understood that the use of public armorial bearings and decorations may be considered contrary to public order in the sense of the final paragraph of Article 6.

(5) The organization of a special service of industrial property mentioned in Article 12 shall include, as far as is possible, the publication in each state of an official periodical.

(6) The common expenses of the International Bureau, created by Article 13, shall in no case exceed yearly a sum-total representing a mean of 2,000 francs for each contracting state.

In order to determine the contributory share of each of the states in this sum-total of expenses, the contracting states, and those who may hereafter adhere to the Union, shall be divided into six classes, each contributing in proportion of a certain number of units, namely: First class, 25 units; second class, 20 units; third class, 15 units; fourth class, 10 units; fifth class, 5 units; sixth class, 3 units.

These coefficients shall be multiplied by the number of the states of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

The contracting states are classified as follows in respect to the division of the expenses:

*First class.*—France, Italy.

*Second class.*—Spain.

*Third class.*—Belgium, Brazil, Portugal, Switzerland.

*Fourth class.*—Netherlands.

*Fifth class.*—Servia.

*Sixth class.*—Guatemala, Salvador.

The Swiss Government shall supervise the expenditure of the International Bureau, make the necessary advances, and state the annual account, which shall be communicated to all the other Governments.

The International Bureau shall collect information of every kind relating to the protection of industrial property, and shall compile from it general statistics, which shall be transmitted to all the Governments. It shall occupy itself with examinations of general utility which may be of interest to the Union, and shall publish, with the assistance of the documents put at its disposal by the various Governments, a periodical in the French language on questions which concern the object of the Union.

The numbers of this periodical and all the documents published by the International Bureau shall be partitioned among the Governments of the states of the Union in the proportion of the number of contributory units above mentioned.

The copies and supplementary documents which may be requested either by the said Governments, or by corporations or private persons, shall be paid for separately.

The International Bureau must always hold itself at the disposal of the members of the Union, in order to furnish them, on questions relating to the international service of industrial property, with such special information as they may need.

The Government of the country where the next conference is to be held shall prepare, with the assistance of the International Bureau, the work of the said conference.

The director of the International Bureau shall be present at the sessions of the conferences, and shall take part in the discussions without voting.



He shall make an annual report on its management, which shall be communicated to all the members of the Union.

The official language of the International Bureau shall be the French language.

(7) The present final protocol, which shall be ratified at the same time as the convention concluded this day, shall be considered as forming an integral part of that convention, and shall have the same force, value, and duration.

In faith whereof the undersigned plenipotentiaries have drawn up the present protocol.

BEYENS.  
 VILLENEUVE.  
 Duc DE FERNAN-NUÑEZ.  
 P. CHALLEMEL-LACOUR.  
 CH. HÉRISSE.  
 CH. JAGERSCHMIDT.  
 CRISANTO MEDINA.  
 RESSMAN.  
 BARON DE ZUYLEN DE NYEVELT.  
 JOSÉ DA SILVA MENDES LEAL.  
 F. D'AZEVEDO.  
 J. M. TORRES-CAÍCEDO.  
 SIMA M. MARINOVITCH.  
 J. LARDY.  
 J. WEIBEL.

#### PROTOCOL.

The International Conference of the Union for the Protection of Industrial Property, convened at Rome April 29, 1886, having concluded its labors, submits to the Governments of the states represented the articles additional to the convention concluded at Paris March 20, 1883, and the regulation for the execution of the said convention of the following tenor:

*Additional articles to the convention concluded at Paris March 20, 1883.*

(To Article 5.)

Each country is authorized to define the sense in which the term "*exploiter*" is to be interpreted within its jurisdiction.

(To Article 10.)

1. Every production bearing illegally a false mark of origin may be seized on importation in all the contracting states.

The seizure may likewise be made in the country into which the production has been affixed as well as in the country into which the production has been imported.

The seizure is to be made on the complaint of the public prosecutor, or of an interested party, person, or corporation, in conformity with the domestic legislation of each state.

The courts of each country are empowered to decide what are the cases which, by virtue of their generic character, are not included in the present provisions.

The authorities are not required to make the seizure *in transitu*.

2. No fraudulent intention exists in the case provided for by paragraph 1 of Article 10 of the convention, when it is proved that it is by the consent of the manufacturer, whose name is stamped on the productions imported, that the said stamp has been affixed.

The present additional articles shall be ratified, and the ratifications shall be exchanged at Rome within the period of one year, or sooner if possible.

They shall take effect one month after the exchange of the ratification, and shall have the same duration as the convention.

*Regulation for the execution of the convention concluded at Paris March 20, 1883.*

#### I.

(Explanatory provisions.)

(1) In order to obtain the same treatment as subjects or citizens of the contracting states, in accordance with the terms of Article III of the convention, subjects or citizens of states not included within the Union, who, without being domiciled in its

own industrial or commercial establishments in the territory of one of the states of the Union, must be exclusive proprietors of the said establishments, be represented there by a general agent, and prove, in case of denial, that they carry on there actually and continuously their industry or commerce.

(2) As regards the states of the Union lying in Europe, the extra European countries which do not border on the Mediterranean Sea are considered countries beyond the seas (Article 4).

## II.

### (Accession of additional states to the International Union.)

When another state adheres to the convention, the date of the note by which its accession is announced to the Swiss federal council shall be considered the date of entrance of the said state into the Union, unless its Government shall assign a subsequent date of accession.

## III.

### (Jurisdiction of the Union.)

Are considered as belonging to the International Union for the Protection of Industrial Property.

(The various Governments shall furnish to the International Bureau the names of those of their territories, colonies, or possessions included in the Union by the mere fact of the accession of the parent state.)

## IV.

### (Certifications of legal protection.)

(1) In order to insure the protection of the trade or commercial marks of their subjects or citizens in all the territory of the Union the Governments of the country of origin shall grant them a certificate declaring that the said marks have been deposited in the country of origin.

(2) No authentication of the above-mentioned certificate is necessary.

(3) Every petition for the extension of a patent to other countries of the Union must be accompanied by a copy, in manuscript or print, of the description of the invention, and of the drawings (if any exist) which may have been deposited in the country in which the first petition was made.

This copy must be authenticated by the special service of industrial property of this latter country.

## V.

### (Information to be furnished by the International Bureau.)

(1) The International Bureau is required to furnish gratuitously the various Governments with such information as may be asked of it by them concerning patents and trade or commercial marks.

(2) The same information shall be furnished private persons domiciled within the territory of the Union at the rate of 1 franc for the information requested.

This fee may be paid in postage-stamps of the various contracting states on the following basis for those states which do not have the franc as their monetary unit, namely: Brazil, 1 franc=400 reis; Dominican Republic, 1 franc=20 centavos de peso; Spain, 1 franc=1 peseta; Great Britain, 1 franc=10 pence; Guatemala, 1 franc=20 centavos de peso; Norway, 1 franc=80 oere; Netherlands, 1 franc=50 cents; Portugal, 1 franc=200 reis; Sweden, 1 franc=80 oere; Salvador, 1 franc=20 centavos de peso.

(3) The Governments of the various states above mentioned shall receive at the rate stated in the preceding paragraph, the stamps of their country which the International Bureau may have taken as fees for information.

## VI.

### (Temporary protection for inventions, drawings, models, and marks exhibited at international exhibitions.)

(1) The temporary protection provided for by Article 11 of the convention consists of a term of priority of at least six months counting from the date of admission of the production to the exposition, during which the exhibition, publication, or employment, without the authority of the person entitled, of the invention, drawing, model, or mark thus protected, shall not prevent the person who has obtained the said temporary protection from making with due effect, within the said period, his demand for a patent or the deposit necessary to insure definitive protection throughout all the territory of the Union.

Each state is empowered to extend the said period.

(2) The above-mentioned temporary protection shall have no effect, unless, during its continuance, a petition for a patent is filed or a deposit made for the purpose of

insuring to the object to which it applies definitive protection in one of the contracting states.

(3) The terms of priority mentioned in Article 4 of the convention are distinct from those treated of in the first paragraph of the present article.

(4) The patentable inventions to which provisional protection has been accorded by virtue of the present article shall be made known to the International Bureau, and shall form the subject of publication in the official organ of the said Bureau.

## VII.

### (Statistics.)

(1) Before the end of the first half of each year the Governments of the Union shall transmit to the International Bureau the following statistics concerning the preceding year, namely :

(a) *Patents of invention*.—(1) Number of patents demanded; (2) number of patents granted; (3) amount of fees collected under this head.

(b) *Drawings or industrial models*.—(1) Number of drawings or models deposited; (2) number of drawings or models registered; (3) amount of fees collected under this head.

(c) *Trade or commercial marks*.—(1) Number of marks deposited; (2) number of marks registered; (3) amount of fees collected under this head.

(2) The International Bureau shall be empowered to adopt the classification it may consider best as regards the statistics of patents of invention, trade or commercial marks, and drawings or industrial models.

## VIII.

### (Enforcement of the present regulations.)

The present regulation shall be put in force as soon as possible.

### (Desire expressed by the conference.)

The conference, moreover, expressed the following desire with reference to Article 2 of the convention of 20th March, 1883.

The states included in the Union which do not possess laws in regard to all the classes of industrial property are to perfect, as soon as possible, their codes of legislation on this point.

The same is to be done by the states which may hereafter enter the Union.

In faith whereof the undersigned delegates of their respective Governments at the International Conference of Rome have drawn up the present report and have affixed their signatures thereto.

Done at Rome, May 11, 1886.

For Germany :

DR. STÜVE.

For Belgium :

DR. JEUX.

For Brazil :

LOPEZ NETTO.

For Spain :

COUNT DE RASCON.

LUIS M. DE LARRA.

BME SPOTTORNO.

For the United States of America :

J. B. STALLO.

For France :

COUNT DU TOUR.

C. NICOLAS.

For Great Britain :

H. READER LACKE.

J. H. G. BERGNE.

For Italy :

UBALDINO PERUZZI.

ANTOINE MONZILLI.

ORESTE LATTES.

REMY TRINCHE.

SPEDENER.

For Luxembourg :

SANCHEZ ASCONA.

For Mexico :

COUNT HAMILTON.

For Norway :

E. RENAZZI.

For Paraguay :

WESTENBERG.

For the Netherlands :

GEORGE SNYDER, v. W.

E. DE SOUZA PREGO.

For Portugal :

A. C. PLAGINO.

For Roumania :

M. CHRISTITCH.

For Servia :

COUNT HAMILTON.

For Sweden :

BAVIER.

For Switzerland :

DR. WILLI.

For Tunis :

MICHEL PELLETIER.

For Uruguay :

P. ANTONINI DIEZ.



CORRESPONDENCE WITH THE LEGATION OF ITALY AT  
WASHINGTON.

No. 289.

*Baron Fava to Mr. Bayard.*LEGATION OF ITALY,  
*Washington, February 16, 1886. (Received February 17.)*

MR. SECRETARY OF STATE :

In pursuance of the provisions of the fourteenth section of the act of Congress of June 26, 1884, "to remove certain burdens on the American merchant marine," &c., vessels coming from the ports of North and Central America, and from the West India, Bahama, Bermuda, and Sandwich Islands, or from Newfoundland, have, since the aforesaid act took effect, been subjected, on their arrival in the United States, to the payment of a duty of 3 cents per ton, not exceeding, in the aggregate, 15 cents per ton in any one year, while a duty of 6 cents per ton, not exceeding, in the aggregate, 30 cents per ton in any one year, continues to be levied upon vessels coming from Italian ports. Having been duly informed of this fact, the Government of the King instructs me, and I have the honor hereby to request the Federal Government to be pleased to adopt the necessary measures to the end that vessels coming from Italian ports may likewise enjoy, from the date of the aforesaid act of Congress, the same privilege that is accorded by the fourteenth section of the act in question to vessels coming from ports in the countries enumerated in the section aforesaid.

It is scarcely necessary to remind your excellency that the request which I have been instructed to lay before you is based upon Article 24 of the treaty of June 25, 1871, which is now in force between Italy and the United States. The English text of said article is as follows :

The United States of America and the Kingdom of Italy mutually engage not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

The fourteenth section of the act "to remove certain burdens on the American merchant marine," &c., further provides that—

The President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any port in the Dominion of Canada, Newfoundland, the Bahama Islands, the Bermuda Islands, the West India Islands, Mexico, and Central America, down to and including Aspinwall and Panama, as may be in excess of the tonnage and light-house dues or other equivalent tax or taxes imposed on American vessels by the Government of the foreign country in which such port is situated.

The President, in the exercise of this power, has suspended, by his proclamation of January 31, 1885, the collection of the tax of 3 cents per ton on vessels coming from certain ports in Canada, the United States of Colombia, and other countries.

On the ground, moreover, of the clause contained in Article 24 of the treaty concluded in 1871 between Italy and the United States, the Royal Government regards the conditional privilege granted by the second paragraph of the fourteenth section of the act of Congress of 1884, and by the proclamation of the President of the United States, as already secured in behalf of Italian vessels coming from the ports of the Peninsula.

Consequently, if it shall be possible to prove that American vessels are subjected in Italian ports to the payment of no tonnage or light house duty, or to that of no equivalent tax, or that American vessels pay less than 3 cents per ton in Italian ports, the duties which Italian vessels are now obliged to pay in the ports of the United States should be entirely suspended or proportionally reduced.

As the Italian Government is not prepared, just at present, to furnish such proof (although it reserves the privilege of so doing in future communications), it instructs me, in the mean time, to bring the foregoing to the attention of the American Government, and to ask your excellency's good offices to the end that the duty of 6 cents per ton, which is still levied in the ports of the United States upon vessels coming from those of Italy, may be reduced to 3 cents, from the date of the promulgation of the act "to remove certain burdens on the American merchant marine," &c.

Be pleased to accept, &c.,

FAVA.

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No. 290.

*Mr. Bayard to Baron Fava.*

DEPARTMENT OF STATE,  
Washington, March 12, 1886.

BARON: I have the honor to acknowledge the receipt of your note of the 16th ultimo, calling attention to the provisions of section 14 of the act of Congress of June 26, 1884, "to remove certain burdens on the American merchant marine," &c., reducing the amount of tonnage-tax on vessels entered in any port of the United States from any foreign port in North America, Central America, and certain other quarters named, and fixing "a duty of 6 cents per ton \* \* \* at each entry upon all vessels which shall be entered in the United States from any other foreign ports."

Your note also calls attention to the provisions of Article XXIV of the treaty of February 26, 1871, between Italy and the United States, which reads: "The United States of America and the Kingdom of Italy mutually engage not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation if the concession was conditional;" and you communicate the request of your Government, in view of said section 14 and Article XXIV of the treaty, that vessels from Italian ports "may likewise enjoy from the date of the aforesaid act of Congress the same privilege that is accorded \*

\* \* to vessels coming from ports in the countries enumerated in section 14."

The Department had occasion to present the question of the proper interpretation of the fourteenth section of the act mentioned in connection with the "favored-nation clause" of our treaties with certain countries to the Attorney-General in September last. The opinion communicated in reply is that—

The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act and entered in our ports is purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and

carry between this country and any port embraced in the 14th section of the act; and that no warrant exists to claim that there is anything in "the most favored nation" clause of the treaties between this country and the powers mentioned—

In the letter of this Department to the Attorney-General of the 8th September, of which Italy was one—

that entitles them to have the privileges of the 14th section extended to their vessels sailing to this country from ports outside the limitation of the act.

It will be seen that the opinion above relates to the entire scope of Article 14 of the act of 1884, and therein furnishes the reply to the second branch of your inquiry, as well as the first.

Accept, Baron, &c.,

T. F. BAYARD.

## JAPAN.

No. 291.

*Mr. Hubbard to Mr. Bayard.*

No. 105.]

UNITED STATES LEGATION,  
*Tokio, Japan, January 23, 1886. (Received, February 18.)*

SIR: I take much pleasure in inclosing herewith, for your careful attention and consideration, an interesting article from the native Japanese press (the Jiji Shimpō) on the subject of our trade relations with Japan. The editor and proprietor of this leading representative journal, Mr. Fukazawa, is one of the ablest men of this Empire, both in natural capacity and by culture. He writes and speaks the English language, and has been a close student and practical observer of political events and institutions, and especially of the United States. He is educating his sons at our universities, and for many years has been a leader in the political and educational evangelization of his native land. He is proprietor and president besides (and for many years also) of one of the best educational institutions of the Empire, and has done as much or more for the intellectual development of this people, perhaps, than any other one man, living or dead. He has been repeatedly offered political positions of distinction and emolument, but has declined on the ground that the field in which to cultivate and advance the national civilization and dignify the national life was through the proper education of the young men and women of the Empire, in the school, the college, and through an enlightened press.

I have thus, somewhat at length, invited your attention to the history of this distinguished subject of Japan, because it serves to give importance and real interest to the thoughts which he has uttered in his daily journal in connection with the relations of trade and comity of the two countries. I express the opinion, with deference, that the publication of the views of such a representative man, with the knowledge of his antecedents and his present position in this country as herein set forth, would be interesting and practically useful to the American people. I hope that the State Department will coincide in these opinions which I have the honor respectfully herewith to submit.

I have, &c.,

RICHARD B. HUBBARD.



[Inclosure in No. 105.]

**The Jiji Shimpo has the following:**

"It is now several years since we first came into contact with the nations of the West. We were on the most friendly terms with the Dutch, for whom we opened the port of Nagasaki as a trading place. It was solely through our intimate relations with them that we were enabled at that time to obtain an idea of the state of the outer world, while as yet we were in a condition of the most complete seclusion, a certain number of Japanese of the higher classes being made acquainted through the Dutch books of what other countries were like. Thirty-two years ago, however, Commodore Perry entered the Bay of Yeddo, bearing a dispatch from the United States Government, and accompanied by several men-of-war; and he induced the Government of the Shogunate, then in power, to sign a treaty of friendship and commerce. Since then country after country has entered into treaty relations with us. Several ports in addition to Nagasaki were opened for foreign trade, and as our relations with foreign states became more intimate, some of us, observing that we were beings similar in most respects to our visitors, determined to go and see those other countries. Impressed in the most powerful way by what we saw in those distant lands, a desire to be like civilized nations took shape in our minds. All attention was at once bent on the work of preparation to set out on the new path. Since then improvements and reforms have been effected in every direction—in our political system, in our military organization, in science, arts, commerce, and in our various industries, and as the result of the arduous labors of thirty years ago the Japan of to-day has been produced. No other country in the East has been able to create, as the Japanese have done, a new country on the lines of Western civilization. That this country is advanced far beyond all the countries of the East is a fact which none would attempt to dispute. More than that, there is no country in the world, except some in Europe and America, to which we must largely yield in point of enlightenment and civilization. To the South American states even, peopled as they are by emigrants from the continent of Europe, there is assigned by universal consent a position in many respects below that which Japan, much to her honor, now occupies. When we remember that it is to the United States of America that we owe our success and our advancement to our present proud position, we cannot help entertaining for them sentiments of peculiarly deep respect and esteem. But the people of the United States have endeared themselves to us not merely by the circumstance that they were our leaders and guides in the work of thirty years ago, but also by the uniform mildness and justice of the treatment that we have received at their hands since that time—treatment which sufficiently convinces us that they are not a nation which desires to profit by the misfortunes of others. There has not come to our notice a single instance of the United States betraying an unreasonable spirit in dealing with this country. It is true that they had a share in the affair of the Shimonoseki indemnity, but so soon as the Government of the United States became aware of the injustice of the transaction, they did not hesitate to correct their mistake by returning to us their share of the indemnity, an action which did not fail to effect the people of this country favorably towards them. We cannot forget either that the United States is our nearest civilized neighbor—a couple of weeks' sail alone separating the two countries. But in national intercourse it is not enough to entertain amicable and friendly feelings towards one another; we must mutually confer in one way or another solid and appreciable benefits. Commerce is the chief means by which one country may gain advantages from its relations to another. The trade between Japan and the United States is represented by yen 15,600,000 per annum. This, to be sure, is no contemptible sum, and is certain to increase in the future. But even at the present time it would not be at all a difficult matter to increase the figure by two-fold, if a little more thought were employed. Of this total the export from Japan amounts to yen 13,100,000, nine-tenths of which consists of two articles, silk and tea, in the proportion of silk, yen 6,000,000, and tea, yen 5,800,000. The export from the United States to this country is yen 2,500,000, of which seven-tenths is represented by petroleum (yen 1,800,000). The trade between the two countries is, therefore, made up at present of the exchange of three articles, in the proportion of 13 from this country to 2½ from the United States. Besides tea and silk, various articles are required in American markets, such as minerals and manufactured goods, so that it should be quite easy to increase the exports from Japan. Further, a great many of our enterprising men have gone from Japan to the United States, and this should also operate in increasing the demand for Japanese goods. It is clear, therefore, that this trade has a hopeful prospect before it. On the other hand the import to us from the United States consists almost solely of petroleum, and the total amount of this trade cannot be at all satisfactory to Americans. We are told that in the markets of South America the manufactured goods of the United States are to a very considerable extent driving out English stuffs; how is it then that Americans here do not think of entering into competition with the English?

Again, we believe the Americans know that large quantities of German beer are exported to Japan. Although the trade cannot amount to a very large sum, it is still to be regretted that the brewers of the United States should permit the Germans to monopolize the trade. Then, taking railways, it is generally admitted that the simple and convenient methods of railway construction obtaining in the States would be well adapted to Japan, but as yet no American has attempted to introduce the system here. It seems as if it would be an easy matter for the Americans to increase their exports, so as, at least, to balance their imports from this country. Desirous of preserving and perpetuating the friendship between the two nations, we call the attention of the Americans to the highly unsatisfactory condition of their commercial relations."

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No. 292.

*Mr. Hubbard to Mr. Bayard.*

No. 117.]

UNITED STATES LEGATION,  
Tokio, Japan, February 12, 1886. (Received March 17.)

SIR: I have endeavored, since my entrance upon the duties of this mission, by all legitimate means within my power, to encourage the discussion of the trade relations of Japan and the United States, with the object of intelligently familiarizing exporters and importers of our respective countries, through the Japanese and American press and otherwise, with the great pecuniary advantage to both of encouraging and increasing that trade. In my dispatch No. 105 I had the honor to inclose for your perusal a very able article from the native press — "Jiji Shimpō" — breathing as it did a healthy and intelligent spirit of political as well as commercial friendship toward the United States. This influential native editor (whose leaders are largely translated and copied by the English press here) is devoting much of his great talents and zeal to almost daily discussions in his daily paper of the Japanese-American trade relations. Herewith inclosed I desire respectfully to call your attention to another and later article, which presents this subject in a true light, and which is certainly warranted by the facts of the case. A spirit of inquiry has been aroused, and if our own (American) merchants would turn their attention in a practical business way toward the East, studying the character and wants of this trade, there is no reason why in the next decade the aggregate exports and imports of the two countries should not double, or even quadruple, the present quantity and value.

I have, &c.,

RICHARD B. HUBBARD.

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[Inclosure in No. 117.]

The Jiji Shimpō, returning to the subject of commercial relations between Japan and the United States, says:

"Having regard to the positions of the two countries geographically, and also to the nature of their products, it seems as if the trade between them ought to undergo a yearly increase. Whether it is that the Japanese are too short-sighted to grasp the situation, or that the people of the States are too busily engaged at home to look in this direction, it is not at present necessary to decide, but it is matter for grave regret that the negligence of the two nations has tended to retard the development of their commercial relations. According to the trade report of 1883, the trade between this country and England is represented by yen 4,832,800 in exports, and yen 12,744,944

in imports; while our commerce with the United States of America is shown by yen 13,247,840 in exports, and yen 3,187,114 in imports. There may be several circumstances to account for this difference, but the chief cause seems to be that the merchants of America do not pay so much attention to the trade with Japan as Englishmen do. If American merchants desire to improve their commercial relations with this country they can easily do so. They have the disposal of several commodities that can be profitably imported here, such for instance as cotton fabrics, woolen goods, and other articles of a miscellaneous nature. Nor is there any lack of articles here to be imported to their side.

"To mention an example, the large amount of sulphur used in American factories, at present supplied by Italy, might be imported from this country, as our article is better and cheaper than the Italian. Apart from the negligence of American merchants, however, there is another circumstance, and it is this: that American importers have not the advantage of a return freight. This, of course, arises from the negligence of our merchants to supply them with suitable articles to take home. It is therefore to be desired that Japanese merchants should strive to supply the demands of Americans, at the same time importing as much as possible from America, excepting rails and other iron wares, which are best made in England. It is not necessary that our railroads should be of elegant construction; practical utility alone should be made the aim. We ought therefore to consider it best not only to import American materials of construction, but also to hire American engineers. Both countries have natural products which can be profitably exchanged. Last year, while on his way to his post here, the American minister, Mr. Hubbard, made a speech at San Francisco, in which we remember he alluded to the want of interest taken by American merchants in the trade with Japan, and pointed out that the present volume of that trade might be easily increased two or three fold. True, much is to be ascribed to the negligence of the Americans, but the indolence of the Japanese has been hardly less blameworthy. We hope our merchants will endeavor to show the Americans that the Japanese trade is sufficiently promising to repay any attention they may bestow on it."

FEBRUARY 9, 1886.

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### No. 293.

*Mr. Hubbard to Mr. Bayard.*

No. 149.]

UNITED STATES LEGATION,  
*Tokio, Japan, April 22, 1886. (Received May 17.)*

SIR: I have the honor to transmit herewith two copies of the "Annual Return of the Foreign Trade of the Empire of Japan, published by the Bureau of Customs, for 1885," in accordance with the request of his excellency the minister for foreign affairs, for the information of the honorable the Secretary of State and the honorable the Secretary of the Treasury of the United States.

In transmitting this interesting paper, showing the trade relations of this Empire with all nations, I respectfully invite your attention and that of the Government at Washington to the status of the trade, especially between Japan and the United States, for the year 1885.

From this voluminous report of 298 pages I have endeavored to economize the time of your Department, as well as to lessen the burden of ascertaining the subjoined results, involving a careful and patient investigation, by anticipating such labor in performing it myself.

From the wilderness of facts and figures contained in this annual return I have the honor to submit a compilation not found in said report in the form herewith presented. The individual statistics are the same, and have only been presented in a different combination to illustrate certain phases of the trade relations of Japan with the principal European nations, and particularly with our own country, which are not presented so prominently in this official paper of the Japanese Government.



I submit the following synopsis of Japan's export and import trade with the United States, Great Britain, Germany, and France for the year 1885:

|                        | United States. | Great Britain. | Germany.     | France.      |
|------------------------|----------------|----------------|--------------|--------------|
|                        | Yen.           | Yen.           | Yen.         | Yen.         |
| Exported to.....       | 15,613,808 87  | 2,411,978 61   | 463,933 35   | 6,735,911 88 |
| Imported from.....     | 2,726,184 68   | 12,415,421 53  | 1,665,652 72 | 1,329,866 27 |
| Total.....             | 18,340,053 55  | 14,827,406 14  | 2,129,586 07 | 8,065,778 15 |
| Excess of exports..... | 12,887,684 19  |                |              | 5,406,045 61 |
| Excess of imports..... |                | 10,003,442 92  | 1,201,719 37 |              |

The following tables show value of commodities imported into Japan free, also under specific duty and ad valorem duty:

## UNITED STATES.

|                                                    | Yen.          |
|----------------------------------------------------|---------------|
| Japan, admitted free.....                          | 180,006 24    |
| Japan, admitted under specific duty.....           | 246,033 45    |
| Japan, admitted under ad valorem, 5 per cent.....  | 2,264,219 67  |
| Japan, admitted under other duties not stated..... | 35,925 32     |
| Total imports.....                                 | 2,726,184 68  |
| Exported from Japan to the United States:          | Yen.          |
| United States, admitted free.....                  | 14,848,013 66 |
| United States, imported ad valorem.....            | 502,074 16    |
| United States, imported, duty not stated.....      | 263,780 88    |
| Total export to United States.....                 | 15,613,868 70 |

## GREAT BRITAIN.

|                                             | Yen.          |
|---------------------------------------------|---------------|
| Japan, imported under specific duty.....    | 9,161,615 53  |
| Japan, imported free of duty.....           | 178,228 00    |
| Japan, imported ad valorem, 5 per cent..... | 3,075,578 00  |
| Total imports.....                          | 12,415,421 53 |

## GERMANY.

|                                                   | Yen.         |
|---------------------------------------------------|--------------|
| Japan, imported under specific duty.....          | 952,881 00   |
| Japan, imported under ad valorem, 5 per cent..... | 693,529 72   |
| Japan, admitted free.....                         | 19,242 00    |
| Total.....                                        | 1,665,652 72 |

## FRANCE.

|                                             | Yen.         |
|---------------------------------------------|--------------|
| Japan, imported under specific duty.....    | 884,760 00   |
| Japan, admitted free.....                   | 4,065 00     |
| Japan, admitted ad valorem, 5 per cent..... | 441,041 27   |
| Japan, total imports.....                   | 1,329,866 27 |

From the foregoing tables, as well as from the annual report of 1884, it will be observed:

(1) That the total exports and imports in value between Japan and the United States for 1885 exhibits the remarkable increase over 1884 of 4,527,039 yen.

(2) Exhibits an increase of imports to the United States from Japan, in 1885 over 1884, in value of 4,339,383 yen.

(3) Also shows an increase of exports from United States to Japan, in 1885 over 1884, of 197,657 yen.

The foregoing statement, while exhibiting a gratifying and healthful condition of our trade relations, also discloses the fact, not so healthful or gratifying, that the balance of trade is against the United States to the amount of 12,887,684 yen.

(4) The balance of trade against the United States for 1885, in excess of 1884, is 4,142,629 yen. It will be observed, therefore, that the United States, as attested by these official figures, is the most valuable customer which Japan has among all the treaty powers, buying and consuming of Japanese products nearly one-half in value of all her exports to foreign nations and that the total trade value of the imports and exports of the two nations equals about one-fourth of Japan's commerce with all the other nations of the earth combined. The desire to lessen this balance of trade does not involve the necessity of diminishing American imports from Japan, but it does involve the very natural wish and expectation that the imports of Japan from the United States should correspondingly increase with the value of our imports from Japan.

It is not my purpose in this connection to discuss why this trade has not been more evenly balanced heretofore, or how that result might be attained hereafter, as it could be beyond any doubt. The fault is not with our Government, whose liberal policy has been, and is now, to admit *duty free* through our custom-houses over fourteen millions of the fifteen millions of imports to the United States from Japan. It is not chargeable to the want of good neighborhood and the most cordial relations between our respective peoples. It cannot be chargeable to the Government of Japan, certainly in any invidious desire to court the favors of European powers for political reasons, by encouraging a larger import trade from some other nations than from the United States, which is notably the fact as to England and relatively as to Germany and France. It is not with the Government that we find fault; rather is it not attributable to the supineness of our American merchants and manufacturers both of cotton and woolen and iron and steel, and to the sad decadence of the American merchant marine, once the pride of the Republic, which leaves the ocean highways of commerce to the ships of other nations to bear American products to the world's markets? I am informed by American merchants and manufacturers, especially of iron and steel, locomotives, all railroad fixtures, stationary engines, and even iron rails, &c., that these goods can be delivered to-day in China and Japan as cheap, and they declare cheaper, than the same class of goods can be delivered by British or German or any European manufacturers. The best evidence of the good faith of the ability of our countrymen to do so is the fact that they are here now, by their agents, to offer to this Government, as they have done (who controls the railways and telegraphs and all transportation systems), to enter into fair and open competitive bidding for such Government contracts. This is, at last, a movement in the right direction, and it will test certainly these propositions, first, whether American manufacturers can succeed by such fair competition in Japan, and, second, whether the Government, in vindication of an impartial justice, will encourage a larger import trade by Japan from the United States on condition of the offer of as good or better bargains as are offered by other peoples who sell largely to but buy lightly and warily from Japan. The trade of Japan and England is a subject of interest to all Americans especially. It will be observed, as I once before in forwarding a se-

ries of these monthly trade returns had the honor to indicate, that both the exports and imports of Great Britain and Japan have largely decreased in recent years. Nevertheless, while the total exports and imports of 1885 amount to only 14,827,400 yen, the balance of trade is held with iron hand by England *against* Japan, by an excess of her imports over exports from Japan of 10,003,442 yen. The United States buys from Japan annually over fifteen millions, while England buys only a little over two millions. It will be noted with surprise, too, that while Great Britain boasts of being the birthplace of "free trade" as recognized by political economists, it is a fact that the United States admits free of all duties more Japanese exports through her ports than the entire sum total of *both* the exports and imports of Japan and England. France occupies a similar relation to the trade of Japan to that of our country. The balance of trade is against France by 5,406,045 yen; while Germany, though, compared with the United States and Great Britain and France, holding a small and comparatively insignificant portion of the trade of Japan, still maintains an excess of her imports to Japan over Japan's exports to Germany of 1,201,719 yen. She buys of Japan 463,933 yen, but sells to that country 1,665,652 yen. Notwithstanding all this stern "logic of facts and figures," our American products of the field and loom, of our iron, and cotton, and woolen mills, &c., *outside* of petroleum oils (which could not be had anywhere else on earth heretofore), has seen the gold and silver of Japan going to England and Germany principally for a market, and the patronage incident to great public works of internal improvements, committed mostly to European manufacturers, iron men, and engineers! As before intimated, I will be permitted to say that the cause of all this want of reciprocity of trade has been found at the doors of our own people, who have never, until recently, scarcely made an endeavor to create an export trade to the East, and especially to Japan. By such means as need not be told to the intelligent and enterprising merchants and manufacturers of the United States, such larger export trade can be attained.

The statistics I have the honor to forward to your Department constitute a fruitful theme for speculation and useful discussion.

In the light of present developments, and counting largely on the traditional pluck and energy of the American character as well as for its courage and far-seeing sagacity when once aroused to action, I venture to predict a yet more healthful growth of the already valuable trade between Japan and the United States.

I have, &c.,

RICHARD B. HUBBARD.

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No. 294.

*Mr. Hubbard to Mr. Bayard.*

No. 235.]

UNITED STATES LEGATION,  
Tokio, Japan, October 11, 1886. (Received November 4.)

SIR: The extradition treaty concluded between the United States and Japan having now been duly ratified, and the said ratifications exchanged, it may not be uninteresting to note the effect the ratification of said treaty has made on the Japanese mind. To this end I herewith



inclose two editorial articles which appeared in the Japan Daily Mail of the 3d of September and the 11th of October, respectively.

Though the editor of this journal is an Englishman he does not hesitate to differ from the contention of his own Government. These articles interpret at least the Japanese sentiment of gratification at the conclusion and ratification of this extradition treaty.

I have, &c.,

RICHARD B. HUBBARD.

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[Inclosure 1 in No. 235.—Extract from Japan Mail of September 3, 1886.]

The conclusion and ratification of an extradition treaty between the United States and Japan still further accentuates the anomalies of extraterritoriality, as certain powers interpret the term. Great Britain, on the grounds that extradition having ceased, with her, to be purely a function of the executive and become a judicial act, and that by treaty she has acquired the privilege of performing all judicial acts as regards her own subjects in Japan, claims that she is entitled to pursue and arrest within Japanese territory Englishmen flying thither to escape the consequences of crimes committed elsewhere. The contention is intelligible enough, but scarcely, as we think, tenable, since, if pushed to its logical consequence, it means that each of the treaty powers is competent, by independent legislation, to extend extraterritorial privileges as much as it pleases, without any regard for the treaty which confers those privileges. At all events, we have now an emphatic declaration from the Government of the United States that, in matters relating to extradition, the treaties have nowise altered Japan's status as an independent empire.

\* \* \* \* \*

President Cleveland's announcement that one reason for the conclusion of the extradition treaty is "because of the support which it will give Japan in her efforts toward judicial authority and complete sovereignty" seems worthy of the liberal attitude which the United States have always adopted toward this country. It may be said that this treaty, accompanied by such an announcement, is the second practical evidence which the United States have given of their good will. Of professions there has not been any stint, but, with the exception of the restoration of the Shimonoeki indemnity, nothing tangible had been done until now. Henceforth there will be less justice on their side who claim that America's friendship has hitherto been *vox et proterea nihil*.

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[Inclosure 2, in No. 235.—Extract from Japan Mail of October 11, 1886.]

#### EXTRADITION TREATY BETWEEN JAPAN AND THE UNITED STATES OF AMERICA.

We publish to-day the text of the extradition treaty just concluded between Japan and the United States of America. The original treaty was in English, with the exception of His Majesty the Emperor's ratification, our translation of which is authorized. The negotiation and conclusion of this treaty have been marked by a degree of expedition which is not usual in diplomatic proceedings. The subject of a new extradition treaty between Great Britain and America had been under discussion for nine years, when the present representative of the United States in London brought his legal abilities to bear on the question; yet the treaty is still *res infecta*. The idea of this Japanese treaty, on the other hand, was conceived last December. It was concluded the 29th of April; ratified the 25th of September, and the ratifications were exchanged the 27th day of the latter month. The whole transaction occupied barely nine months.

The circumstance which led immediately to negotiations for a treaty of extradition between Japan and the United States was the flight to the former country last fall of a citizen of the latter charged with forgery and embezzlement. We need not dwell upon the details of that event, as they are still fresh in the memory of the public. It will be sufficient to say that, in the interests of justice and for the sake of comity, Japan entertained the request of the United States, caused the fugitive, Calvin Pratt, to be arrested, and handed him over to officials delegated by the authorities of the State of California to receive him. It was explicitly stipulated by the Japanese Government at the time that this unusual exercise of executive power was not to be construed as a precedent, and the United States Government, recognizing the incon-

venience of leaving the question of extradition in such an indeterminate form, fell in with Japan's suggestion, and proceeded to negotiate the treaty of which the ratifications have now been happily exchanged.

The affair derives its chief interest from its bearing upon that much discussed and constantly misinterpreted subject, extraterritorial jurisdiction. By treaties concluded twenty-eight years ago, Japan temporarily surrendered to foreign consular courts a portion of her jurisdiction. The unique purpose and pretext of this measure were to exempt the persons and properties of foreigners residing or traveling in Japan from the then cruel processes of Japanese law. That, indeed, according to the unanimous verdict of eminent jurists, is the sole *raison d'être* of extraterritorial jurisdiction wherever it has been claimed and permitted. Now, it is manifest that only foreigners who violate the provisions of Japanese law can be exposed to the risks of its processes. Therefore, the intention of extraterritorial jurisdiction cannot concern foreigners who may fly to Japan to escape the consequences of crimes committed beyond her borders in violation of the laws of a foreign state. Such fugitives could not, under any circumstances, be properly tried and punished by her courts, and therefore, she could never have renounced by treaty the power to try and punish them. In a word she did not, and could not, surrender to foreign consular courts any functions not exercised by her own territorial courts. Such a function is the duty of arresting and extraditing persons fleeing from foreign justice. The power to make these arrests and surrenders belongs primarily to the executive, and in Japan is still retained entirely by the executive; although in some other countries—notably Great Britain—it has been partially delegated to the judiciary. Thus, the treaties of 1858 did not in any way affect the question of extradition, and assuredly the purely judicial concessions which they contained could not confer upon their foreign signatories executive power to override Japan's sovereign right of asylum. For the great majority of those signatories the question possessed no practical importance. But England was obliged to consider it, owing to the proximity of her territories and the corresponding probability that fugitives from her justice might escape to Japanese soil. She settled the matter very simply by assuming that under the treaties she had acquired the power to pursue and arrest her fugitive subjects within Japanese territory. The assumption was eminently practical, and from England's point of view not wholly illogical. She held that for all judicial purposes Japanese soil is as British soil; with her processes of extradition are in great part judicial processes; therefore the power to follow and seize her fugitive subjects within Japanese borders was included, she claimed, among the judicial functions delegated to her by the treaties. The contention will not bear examination, for in the first place, apart from the reasons we have already stated, if England acquired any such power under the treaties of 1858, she must also have incurred the obligation to surrender Japanese subjects flying to her territories to escape the consequence of crimes committed in Japan against Japanese laws. But she neither acknowledges nor could legally acknowledge any such obligation. And in the second place she explicitly denied in 1849 that the capitulations in Turkey, which confer the same immunity from Turkish jurisdiction as that enjoyed by foreigners in Japan, could bear the construction subsequently placed by herself upon the Japanese treaties.

Considering, then, the attitude assumed and maintained by Great Britain in this matter, there is much interest in the fact that the United States of America have taken up a wholly different position. Attempts will doubtless be made to construe this into another evidence of America's friendly disposition to Japan, and of her readiness to separate herself from the league of powers by which this Empire has been held in virtual subjection for so many years. We should be the last to withhold from the United States any portion of the credit justly deserved by their kindly and liberal demeanor towards Japan. Happily, too, the time has come when no contrast that may be drawn between the practical good-will of any one of the treaty powers and that of Great Britain can be to the latter's disadvantage. But in this particular case we would remind Japanese critics that England and the United States were differently circumstanced. The territorial laws of the former lent themselves to an interpretation of the treaties which could not have been accepted by the latter with any show of propriety. Had not this vital difference existed, it is probable that the United States would not have left themselves the opportunity which has now matured to their own credit and to the satisfaction of Japan.

With regard to the terms of the extradition treaty itself, it will be observed that the list of crimes is sufficiently full, but that, owing in part to the amendments proposed in Washington, it does not include any offenses which would be beneath the dignity of an international compact, or which, owing to their different definitions and degree under different statutes, might not be readily capable of general interpretation. The thirteenth clause of Article II will be read with special interest. It might, perhaps, have been improved by the insertion of the words "or other property" after the words "or other buildings." But as it stands it is a sufficient protection against the outrages of that increasing class of scoundrels who pervert the discoveries of

science into instruments of savage crime. This, in effect, is the clause whose insertion in the new extradition treaty between Great Britain and the United States is so much desired by the former. Thus Japan's first extradition treaty has also the honor of being the first to contain a condition clearly necessitated by the state of modern society, but hitherto rejected by international prejudice.

In some other respects the treaty exhibits an enlightened view of international law. In previous treaties it has generally been the custom to provide that a fugitive belonging to the country in which the demand of extradition is made shall not be given up. The effect of this provision is to favor escape from justice. A nation does not try its own subjects for foreign crimes. Thus, while a domiciled person suffers for his offenses, and while a traveler is amenable to the laws of the land through which he passes, the criminal who flies to his own country is beyond the reach of justice. The treaty now before us does not promise immunity to such fugitives, but makes their surrender discretionary. Again, the common stipulation that if the person demanded has committed crimes in the state where he is arrested, the latter's claim of justice against him shall be first satisfied, is here modified by the proviso that the delay incident to the satisfaction of such claim "shall not prevent ultimate extradition." Well worthy of notice, too, is the last clause of Article V. It is there provided that "the fugitive shall be surrendered only on such evidence of criminality as, according to the laws of the place where he is found, would justify his apprehension and commitment for trial if the crime had been there committed." This, though not an unusual stipulation, is significant as a recognition by a great Western power of the condition and comprehensiveness of Japanese criminal codes. We heartily congratulate Japan upon the conclusion of this treaty, and we venture to hope that its success may be an omen of the result which awaits her in the far larger and more important treaty problem now inviting solution.

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## MEXICO.

No. 295.

*Mr. Jackson to Mr. Bayard.*

No. 117.]

LEGATION OF THE UNITED STATES,  
*Mexico, December 2, 1885.* (Received December 11.)

SIR: In accordance with the instruction contained in your No. 87, of November 13, I have addressed a note to Mr. Mariscal directing his attention to the prohibitory character of the import duties placed by the existing tariff laws of Mexico upon certain food products of the United States, and suggesting such modifications as will rather invite than exclude them. I have the honor to inclose a copy of my note.

I am, &c.,

HENRY R. JACKSON.

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[Inclosure in No. 117.]

*Mr. Jackson to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,  
*Mexico, December 1, 1885.*

SIR: I am instructed by my Government to bring to the special attention of your excellency the fact that the rates of duty fixed by the existing tariff laws of Mexico upon certain food products of the United States are such as to prohibit their importation. For example: The duty on lard is 20 cents per kilogram, or 9½ cents per pound; on smoked or salted meats, it is 25 cents per kilogram, or 11½ cents per pound; and on canned meats it is 80 cents per kilogram, or 36½ cents per pound; all net weight.

If the price of lard be taken at 6 cents per pound net, and the freight, which is about 4½ cents per pound, be added, it will be seen that the duty, 9½ cents, is almost as much as the cost of the lard and the freight together.



On canned meats the result is yet more noticeable. One case containing twelve 2-pound cans of corned beef will net 24 pounds of beef, costing say about \$2.50. The freight to the city of Mexico is about \$1.50 per case, while the duty, at 36½ cents per pound, is \$8.73, making one case of 2-pound corn beef, laid down in the city of Mexico, cost \$12.73, of which the duty is \$8.73.

It thus becomes clear that the Mexican tariff, as it now exists, practically excludes these staples of necessity from the markets of the country; and inasmuch as none of them are produced in any of the States of Mexico, it would seem to be equally clear that while benefiting no one, these prohibitory duties must operate to the prejudice of the people of Mexico, in depriving them of cheap and wholesome articles of food. There is scarcely room for doubt that if the tariff were so modified as to invite rather than to exclude these products of the United States, a trade would spring up in them largely augmenting the revenue of Mexico and promoting the true interests of both nations. Will your excellency permit me, on the part of my own Government, most respectfully to urge that consideration be given to this important subject, to the end of ascertaining whether the modifications in the existing tariff laws, which I have been instructed to suggest, may not be properly and judiciously made?

I avail myself, &c.,

HENRY R. JACKSON.

No. 296.

*Mr. Jackson to Mr. Bayard.*

No. 130.]

LEGATION OF THE UNITED STATES,  
*Mexico, December 28, 1885. (Received January 5, 1886.)*

SIR: Begging to refer to my dispatch No. 117, of 2d instant, inclosing copy of my note to Mr. Mariscal, directing his attention to the prohibitory character of the Mexican import duties upon certain food products of the United States, I now have the honor of transmitting copies and translations of two notes written by him in reply to the same.

I am, &c.,

HENRY R. JACKSON.

[Inclosure 1 in No. 130.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, December 2, 1885.*

MR. MINISTER: I have to-day transmitted to the treasury department, for its consideration, your excellency's note of yesterday, in which, by instructions from your Government, attention is called to the duties fixed in the custom-house tariff on certain food products of the United States.

I shall have the honor of communicating to your excellency the decision of the department of finance, and I renew, in the mean time, the assurances, &c.,

IGNO MARISCAL.

[Inclosure 2 in No. 130.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, December 19, 1885.*

MR. MINISTER: The secretary of the treasury; under date of the 16th instant, states to me what follows:

"The President of the Republic has been pleased to approve on this date the following opinion:

"The secretary for foreign affairs, with a note dated the 2d instant, transmits one which was addressed to him on the preceding day by the honorable minister of the United States of America residing at this capital.

"The honorable minister states that he has received instructions from his Government to call special attention to the fact that the rates of duty fixed by the existing

tariff laws of Mexico upon certain food products of the United States are such as to prohibit their importation.

"He says that for example the duty on lard is 20 cents per kilogram, or  $9\frac{1}{2}$  cents per pound; on smoked and salted meats it is 25 cents per kilogram, or  $11\frac{3}{4}$  cents per pound; and on canned meats it is 30 cents per kilogram, or  $36\frac{3}{4}$  cents per pound, all net weight.

"That if the price of lard be taken at 6 cents per pound net, and the freight, which is about  $4\frac{1}{2}$  cents per pound, be added, it will be seen that the duty,  $9\frac{1}{2}$  cents, is almost as much as the cost of the lard and the freight together.

"That on canned meats the result is yet more noticeable, for one case containing twelve 2-pound cans of corned beef will net 24 pounds of beef, costing about \$2.50; that the freight to the city of Mexico is about \$1.50 per case, while the duty, at  $36\frac{3}{4}$  cents per pound, is \$8.73, making one case of 2-pound corned beef, laid down in the city of Mexico, cost \$12.73, of which the duty is \$8.73.

"That thus it becomes clear that the Mexican tariff, as it now exists, practically excludes these staples of necessity from the markets of the country, and inasmuch as none of them are produced in any of the States of Mexico, it would seem to be equally clear that, while benefiting no one, these prohibitory duties must operate to the prejudice of the people of Mexico in depriving them of cheap and wholesome articles of food.

"That there is scarcely room for doubt that if the tariff were modified so as to invite rather than to exclude these products of the United States, a trade would spring up in them largely augmenting the revenue of Mexico and promoting the true interests of both nations.

"The honorable minister of the United States concludes by recommending very respectfully, on the part of his Government, that consideration be given to this important subject, to the end of ascertaining whether the modifications in the existing tariff which he has been instructed to suggest may not be properly and judiciously made.

"The section can only report that having taken no part whatever in the formation of the customs regulations now in force, it is unacquainted with reasons which were had in view in order to fix the rates of duty which the existing tariff imposes upon the articles to which the honorable minister of the United States refers; but having learned that just at present work is going on in the study of the modifications which it may be proper to make in the said regulations, it is of the opinion that the secretary for foreign affairs might be requested to so inform the honorable minister of the United States, stating that his suggestions have been noticed, and that in due time they will be taken into consideration in order to determine what may be most judicious.

"And as the following opinion relates to the same subject, it has likewise been approved:

"Complying with your superior order of this same date, the section proceeds to show the differences resulting between the rates fixed in the tariff of 1880, and those fixed in the existing customs regulations upon the food products mentioned by the honorable minister of the United States in the note received through the department of foreign affairs:

| Articles.                                 | Tariff of 1880.         | Regulations, 1885.       |
|-------------------------------------------|-------------------------|--------------------------|
| Lard with interior wrapping.....          | 18 cents net kilogram.. | 20 cents net kilogram.   |
| Smoked and salted meats.....              | 24 cents net kilogram.. | 25 cents net kilogram.   |
| Canned meats, with interior wrapping..... | 75 cents net kilogram.. | 80 cents legal kilogram. |

"As it is seen the differences undergone in the respective rates by the three articles above-mentioned have consisted in an increase of 2 cents upon lard, of 1 cent upon smoked and salted meats, and of 8 cents upon canned meats; but it must be observed that, according to the tariff of 1880, lard paid 18 cents per net kilogram with inside wrapping, and now it pays 20 cents per net kilogram, and besides to the rates of the former tariff there had to be added 11 per cent. of additional duties and the package duty, whereas at present the rate fixed in the tariff is the only duty to be paid on the goods when imported.

"And I now have the honor of communicating the same to you in reply to your esteemed note of the second instant, stating furthermore that in the study which is being made of the modifications in the tariff, the suggestions referred to will be had in view."

I transmit the above to your excellency for your information, reiterating the protestations of my distinguished consideration.

IGNO MARISCAL.

No. 297.

*Mr. Porter to Mr. Jackson.*

No. 122.]

DEPARTMENT OF STATE,  
*Washington, February 2, 1886.*

SIR: I inclose to you a copy of a letter from the Secretary of War of the 30th ultimo, covering a copy of dispatch from Lieut. Marion P. Maus, of the United States Army, of the 27th ultimo, reporting the circumstances of the fatal wounding of Capt. Emmet Crawford, who was in command of the detachment of troops now operating in Mexico against the hostile Chiricahua Indians.

When the first startling intelligence was received that Captain Crawford had been killed while bearing a flag of truce, this Government refrained from asking an explanation until further confirmatory advices should be received. Lieutenant Maus's report gives the facts which were awaited. It appears that the Mexican attack on the camp was made "at daylight," when it was light enough to see that the assailants were ununiformed; that after fifteen minutes Captain Crawford, with two or three other officers, fully uniformed, advanced into the open, bearing a flag of truce to meet a party of the Mexicans; that in open field and in clear view of both camps a conference was held, in which Captain Crawford announced his nationality, name, and rank, and gave and received assurance that the firing should cease, and that immediately thereafter fire was reopened by the Mexicans on Captain Crawford and his little group of officers, resulting in the death of Captain Crawford and the wounding of Mr. Horn. By this time it was broad daylight and the uniformed officers were distinctly visible, as the fatal accuracy of the aim shows. Lieutenant Maus says:

I had a talk with the man in command, their captain having been killed. I was told by many that they were sure we were hostiles; that they took our train for a hostile train, and *it being dark could not tell*. They seemed very sincere in their regrets and signed a paper stating all was a mistake.

The exculpatory statements made to Lieutenant Maus may be deemed to have rational application to the first surprise and attacking volley at daylight. They can have no possible value as to the second volley after the conference in the open in daylight, when the nationality and friendly mission of Captain Crawford were plainly announced, and when the white signal of a parley was displayed. It is difficult to conceive how the allegation of a "mistake" could be soberly made under such circumstances.

You will, therefore, ask a searching examination into the facts of this unfortunate occurrence, with a view to locating the responsibility therefor, and preventing the recurrence of like "accidents" in the border operations against the hostiles which the two Governments have undertaken in their common and joint interest.

I am, &amp;c.,

JAS. D. PORTER,  
*Acting Secretary.*

(Inclosure in No. 122.)

*Mr. Endicott to Mr. Bayard.*WAR DEPARTMENT,  
*Washington, January 30, 1886. (Received January 30.)*

SIR: I have the honor to transmit herewith, for your information, a copy of a telegram, dated the 27th instant, from Brig. Gen. George Crook, embodying a dispatch from First Lieut. M. P. Maus, First Infantry, dated at camp near Sonora, Mexico.



January 21, 1886, reporting the operations of the detachment of troops under the command of Capt. Emmet Crawford, Third Cavalry, sent into Mexico in pursuit of the hostile Chiricahuas, and also relative to an attack made on the 10th instant upon the detachment by a force of one hundred and fifty-four Mexican soldiers from Chihuahua, who were no uniform, but who were supposed to be *Nacionales*, and the subsequent wounding of Captain Crawford, which resulted in his death on the 18th instant. Lieutenant Maus also reports the result of an interview which he held on the 11th instant with Natchez and Gerónimo.

A copy of the inclosed telegram has been sent to the President.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,  
*Secretary of War.*

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[Telegram.]

*General Crook to Lieut. Gen. P. H. Sheridan.*

FORT BOWIE, A. T., January 27, 1886.

The following just received:

CAMP NEAR SONORA, MEXICO, January 21, 1886.

Capt. C. S. ROBERTS, A. D. C.,  
*Fort Bowie, A. T.:*

SIR: I have the honor to report that this command, under Captain Crawford, Third Cavalry, after a march of eighteen hours, struck, on Sunday, the 10th instant, the hostile camp about 50 miles to the southwest of Nacori, and 1 mile north of the Ara River, or Rio Grande. The hostiles, evidently fearing an attack, had placed their camp among the rocks, a commanding position, where a few men could successfully resist a large force. The four companies of this post were so disposed as to nearly surround the hostile camp, the attack to commence at daylight. A company was assigned to each officer and one to each of the chiefs of scouts.

The camp was situated in a country so broken that with difficulty the command was made to move at night, the ground being covered with broken rocks. Every one in the command wore moccasins to avoid making noise, including officers and others. However, some burros, belonging to the Indian herd, about 400 yards from their camp, hearing our approach, commenced braying and alarmed some of the hostiles, three in number, who came out to the herd and ran near to the company in command of Lieutenant Shipp, Tenth Cavalry. Some shots were fired, which soon became general from all the companies, the Indians flying, leaving their entire camp outfit and herd, with the exception of a few horses. A running fight ensued, which was kept up for about two hours. None of them were secured. The only evidence that any of them were hit was blood left in two places on the ground.

Some of the scouts returned, saying the hostiles wished to send in a woman to talk. This Captain Crawford assented to, and had a talk, agreeing to see Natchez and others the next day. The interpreter, Mr. Horn, and myself were directed to be present. The hostiles were without any food or camp outfit, and had no animals. Had this talk taken place, I believe most of the band would have surrendered. Our ten packs, left about 8 miles distant, were sent for, but did not arrive that night. We went into camp about 100 yards above the Indian camp, on the same line of rocks.

At daylight the next morning, Monday, the 10th, the camp was alarmed by loud cries from some of the scouts, followed immediately by a shower of bullets into our camp. I, with Lieutenant Shipp and Mr. Horn, ran forward to stop it, as it was supposed to be an attack by Captain Davis's scouts through mistake. However, it was soon discovered that the attacking party was a large force of Mexican soldiers from Chihuahua, numbering, as I afterwards ascertained from them, one hundred and fifty-four. They wore no uniform, but I suppose were *Nacionales*. Although we tried in every way, by waving handkerchiefs and by calling out in Spanish who we were, they continued a sharp fire for about fifteen minutes. Then it seemed we had made them understand that we were American soldiers, and friends. A party of them then approached, and Captain Crawford and I went out about 50 yards from our position in the open and talked with them. They did not stop moving. I told them in Spanish we were American soldiers; called attention to our dress, and said we would not fire. They answered they would not fire, but all the time moved toward a hill a short distance away, a little higher than our position, with some scattering oak wood. Captain Crawford then ordered me to go back and insure no more firing. I started back, when again a volley was fired. Of course we all sought shelter. I am sure that they knew who we were perfectly well at this time. Lieutenant Shipp and Mr. Horn were also

shouting at another point, telling whom we were—that all was right. Mr. Horn speaks Spanish very well. When I turned again I saw the captain (Crawford) lying on the rocks, with a wound in his head and some of his brains upon the rocks. This had all occurred in two minutes; he was said to be waving his handkerchief when shot. Mr. Horn was also wounded at the same time in the left arm, and slightly. It is remarkable no others were shot. There can be no mistake, these men knew they were firing at American soldiers at this time. I took command, and endeavored by all means to prevent more firing. I do not believe the scouts fired more than was necessary to keep the Mexicans away.

After about half an hour longer firing ceased and an answer to our cries came from the Mexicans. I sent Mr. Horn to go out and talk with one of them, who advanced and soon followed him to a point some 300 yards away. I had a talk with the man in command, their captain having been killed. I was told by many that they were sure we were hostiles; that they took our train for a hostile train, and it being dark could not tell. They seemed very sincere in their regrets, and signed a paper stating all was a mistake. They asked me for horses to take away their wounded and wanted rations. I promised to do what I could, and also promised, as they requested, to send the doctor to dress the wounded.

The result of this unfortunate affair was the loss to us of Captain Crawford, Third Cavalry, mortally wounded; Mr. Horn, chief of scouts, slightly; two Indian scouts slightly and one severely. The loss on the part of the Mexicans, so far as I could determine, was four killed and five wounded. I saw the dead bodies of four carried away from within 100 yards of our camp. I examined each of them myself. I had to cause the men carrying them away to come without arms, as I feared the scouts would fire at them again, and I remained with them till they were carried off the field.

It seemed hardly possible that these men should continue this attack when they knew who we were, but I now believe they expected to drive us off with an overwhelming force and also secure our camp and effects. I do not believe that they had any idea we were so strong or had taken such a strong position, for which we are indebted to the hostiles. Fearing a fresh conflict, as the scouts seemed much excited and would not leave the rocks, I decided to make litters for the wounded and move the next day. This I did with the advice of Dr. Davis, who reported it was a matter of only a short time as to Captain Crawford's life, and besides he was insensible to pain and would remain so until he died. He died on the 18th instant, having lived seven days and four hours, remaining unconscious until his death.

On the following morning, the 12th instant, I sent six of the captured ponies to the Mexicans, with a request they return receipt. I busied myself with fixing for the march and getting the litters ready for the wounded, when I heard the interpreter, Concepcion, crying out to me. I had sent him with the horses for the Mexican wounded, and to drive back some of the herd taken from the hostiles that had strayed into the Mexican camp. There was no one who could speak Spanish but myself, Mr. Horn being wounded and suffering. So, to expedite matters, I left and went a short distance to see what was the matter. They said to come; they wanted to fix about the horses and receipt. Concepcion was detained by them. I was reassured that all was right and friendly, and I went over a small hill a few yards further, when I was surrounded by these men, a hard-looking crowd. They were armed with a caliber 44 Remington rifle, carrying a cartridge much like our brass cartridges. Their manner was threatening; they made many demands, said I had no authority in Mexico, and asked me to produce my papers. I cannot now explain all their questions. I had no papers to show them; Captain Crawford had left all behind with the train. They asked me for six mules to take their wounded away. I did not expect to get away, but I told them that on my word of honor I would send them if they would let me go back. They refused to take the ponies, as they said they were very worthless. They were not very good. The Indians were shouting and stripping at this time for a fight again. I was then permitted to go. I went to camp and sent them four of my pack and two riding mules, taking receipt for them.

It was now too late to move and I was obliged to remain till the next day. Our rations were nearly out, and although I had sent for the pack train, I did not know when we could hope to see (it) as the country was so difficult.

The next morning I moved camp, carrying the wounded by hand to camp about 4 miles distant. I took all precautions to prevent any trouble from the Mexicans when leaving, as I believed they would attack us if they were sure of success. Shortly after I got in camp two squaws asked permission to come and talk. I granted this, and arranged to meet the chiefs of hostiles next morning. I moved camp about 2 miles, and went down with five Indian scouts, Mr. Horn, and the interpreter to a point a mile distant, where I had a talk with two of the bucks. I told them if they would come in and give themselves up, without arms, with their families, I would take them safely to you, feed, and care for them, but could offer no more. None of the chiefs were present. They were said to be looking for their families, scattered in

the fight. The bucks promised to tell them, and the next day they would come and talk.

The following day they came—Natchez and Gerónimo. They told me they wanted me to talk to you. I took down what they said, in writing, for your information. In this they explain the cause of their leaving the reservation. They agreed next day to arrange to send in some of the band. This they did, and I have secured Nana and one buck, who turned in his rifle; the wife and child of both Gerónimo and Natchez, and one boy; also the sister of Gerónimo, and one other woman—nine in all. They are my prisoners, and I ration them of course. The chiefs will meet you, if you so wish, near the line, where they will have a talk, and, I think, surrender to you. They are tired of being out. I think they wish to meet you in a month; meanwhile they do not intend to do any act of hostility. I believe these people mean to do as they say.

The band consists of Natchez, Gerónimo, Chihuahua, and Nana, chiefs, and twenty bucks, with some women and children. I have Nana and one buck. Twenty-two of the men, therefore, remain out. They have scarcely anything, and are poor and miserable. All I saw had belts full of ammunition. I saw eighteen men.

I will bury the body of the captain at Nacori and mark it well. I will place it in the grave-yard in the care of the president, Señor Casa Mira. The doctor did all he could for the captain. His case was utterly hopeless. The command, without exception, has behaved well, and Indians in carrying the body did more than expected, as they are so superstitious, &c. The gloom cast upon the entire command by the death of Captain Crawford, to whom all were much attached, and who has so faithfully done all possible to accomplish the object for which we were sent, has been very depressing.

The animals are wearing out and I will have to abandon some. I have been delayed by swollen streams. We had to wait one day to cross the Satoche River, 25 miles from Nacori. Our trains from Lang's branch were over five days behind time, I believe on account of the Bavispe River being too high to ford.

In making this report I am unable to write with any facility, and am unable to send you more than an incomplete report, which I hope you may understand. On my return I will give a thorough account of all having taken place and a complete account of all from the date we left. From here I will proceed with all possible dispatch under the circumstances to Lang's branch, which I hope to reach by the 4th proximo or sooner, although the train is overloaded by reason of the absence of the other train sent to Lang's branch for rations on the 28th December, 1885, from Nacori. I have plenty rations, and, with the Indian stock, hope to get along well.

I am in hopes that I will not be molested more by the Mexicans from Chihuahua, and will take all possible care to avoid further bad feeling, and will hurry this report to you by courier.

I have the honor to be, very respectfully, your obedient servant,

MARION P. MAUS,  
*First Lieutenant First Infantry, Commanding.*

Have deemed it best, in order that all information in my possession may be known to the Department, to telegraph Lieutenant Maus's dispatch entire.

GEORGE CROOK,  
*Brigadier-General, Commanding.*

No. 298.

*Mr. Jackson to Mr. Bayard.*

No. 152.]

LEGATION OF THE UNITED STATES,  
*Mexico, February 16, 1886. (Received February 24.)*

SIR: I have the honor to acknowledge receipt of your No. 122, of 11th instant, with inclosures, referring to the attack made by a body of Mexican soldiers upon the detachment of United States troops operating in Mexico against the Chiricahua Indians, and to inclose copy of a note addressed by me to Mr. Mariscal, in obedience to the instruction contained therein.

I am, sir, &c.,

HENRY R. JACKSON.



[Inclosure in No. 152.]

*Mr. Jackson to Mr. Mariscal.*LEGATION OF THE UNITED STATES,  
*Mexico, February 15, 1886.*

SIR: Under instruction from my Government, I have the honor to submit to your excellency the following statement of facts: On the 10th ultimo a detachment of troops from the Army of the United States, operating in Mexico against the hostile Chiricahua Indians, under command of Captain Crawford, of the Third Cavalry, after attacking and routing the enemy, who had been found in position about 50 miles to the southwest of Nacori and 1 mile north of the Ara River, or Rio Grande, went into camp. At daylight the next morning they were attacked by a large force of Mexican soldiers from Chihuahua, and although every effort was made by the waving of handkerchiefs and by the calling out in Spanish that the camp was occupied by American troops, a sharp fire was continued for about fifteen minutes, when Captain Crawford with two or three other officers, fully uniformed, advanced into the open, bearing a flag of truce. They were met by a party of the Mexicans, and in open field and in clear view of both camps a conference was held, in which Captain Crawford announced his nationality, name, and rank, and gave and received assurance that the firing should cease. Despite of this assurance, however, and immediately thereafter, fire was reopened by the Mexicans on Captain Crawford and his little group of officers, which resulted in the death of the former and the wounding of Mr. Horn. By this time the uniformed officers were distinctly visible, it being broad daylight.

Lieutenant Maus, who was left in command of the detachment after the death of Captain Crawford, in making an official report of this unfortunate affair, uses the following strong language:

"There can be no mistake; these men knew they were firing at American soldiers at this time \* \* \* Lieutenant Ship and Mr. Horn were shouting, telling who we were; that all was right. Mr. Horn speaks Spanish very well. \* \* \* I am sure they knew who we were perfectly well at this time. \* \* \* When I turned again I saw the Captain (Crawford) lying on the rocks with a wound in his head and some of his brains upon the rocks. \* \* \* He was said to be waving his handkerchief when shot. \* \* \* The result of this unfortunate affair was a loss to us of Captain Crawford, Third Cavalry, mortally wounded, Mr. Horn, chief of scouts, slightly, two Indian scouts slightly, and one seriously."

From the report of Lieutenant Maus, it would seem that the second volley fired by the Mexicans in broad daylight, after the conference had been held in the open field, when the nationality and friendly mission of Captain Crawford's party had been plainly announced, and the white signal of a parley had been displayed, was not simply inexcusable, but was an act of grievous wrong.

I am therefore instructed to ask of your excellency that a searching examination be made into the facts of this deplorable occurrence, with a view to locating the responsibility therefor.

I beg to renew to your excellency the assurance, &c.

HENRY R. JACKSON.

No. 299.

*Mr. Jackson to Mr. Bayard.*

No. 158.]

LEGATION OF THE UNITED STATES,  
*Mexico, February 23, 1886. (Received March 4.)*

SIR: Referring to my No. 152 of 16th instant, inclosing copy of a note addressed by me to Mr. Mariscal, I now have the honor to transmit copy and translation of his reply advising that the attention of the Mexican Government had already been directed to the unhappy conflict between the troops of the United States and the troops of Mexico, in which Captain Crawford was killed, and had been collecting all the necessary data to form an exact idea of the same.

I am, sir, &c.,

HENRY R. JACKSON.

[Inclosure in No. 158.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, February 18, 1886.*

MR. MINISTER: I have had the honor of receiving the esteemed note of your Excellency, dated the 15th instant, in which, by instructions from your Government, you are pleased to advise me of the facts connected with the skirmish which took place on the 10th of January last, near Nacori, between a local force of Chihuahuans and a detachment of American troops under the command of Captain Crawford, who was mortally wounded.

The attention of the Mexican Government had already been directed to the occurrence to which your excellency refers, and in this department there is being collected all the necessary data to form an exact idea of the same.

Now, in view of the account of the facts contained in the note to which I reply, a very careful investigation will be made to the end of ascertaining who were the responsible parties in this lamentable affair.

I renew to your excellency, &c.,

IGNO MARISCAL.

No. 300.

*Mr. Bayard to Mr. Jackson.*

No. 139.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1886.*

SIR: I have received your No. 158 of the 23d ultimo showing that the Mexican Government is collecting all possible information relative to the unfortunate conflict near Nacori, January 10, 1886, by which Capt. Emmet Crawford lost his life.

A copy of your dispatch has been communicated to the Secretary of War.

I am, &c.,

T. F. BAYARD.

No. 301.

*Mr. Bayard to Mr. Jackson.*

No. 148.]

DEPARTMENT OF STATE,  
*Washington, March 20, 1886.*

SIR: I inclose herewith a copy of Lieut. Marion P. Maus' report in the matter of the killing of Captain Crawford, Third United States Cavalry, while in camp near the Haros River, Sonora, Mexico, by Mexican troops.

The killing of Captain Crawford is a very serious affair, and must be investigated with great care and thoroughness. The enlistment of Indian scouts in the United States Army was especially to provide means appropriate to the end in view, for which express conventions exist between Mexico and the United States—*i. e.*, to pursue and capture hostile Indians who were not to be suffered to find an asylum in the territory of either Mexico or the United States. The broken country and uninhabited regions along the boundaries of the two countries made the movement of regular troops practically futile against such hostile fugitive Indians, and the employment of Indian scouts presented almost

the only means of successfully subjugating the Indian bands who ravage the thinly settled region along the Mexican border.

But such Indian scouts are regularly enlisted, paid, armed, and commanded. They are part of the lawful Army of the United States, and were on the occasion of Captain Crawford's death under his command, and were in close pursuit, and in the very act of ending successfully a vigorous campaign against a dangerous body of hostile Indians by the capture of Geronimo and his band, when they encountered unfortunately the Mexican forces, at whose hands this dreadful injury was sustained.

To abandon the employment of Indian scouts for this especial service would appear to be to relinquish the best known means of giving peace to the border land between Mexico and the United States, and safety to the inhabitants of both countries.

The testimony of Lieutenant Maus, appended, who succeeded Captain Crawford in command, shows, with marked emphasis, hostility to the United States forces on the part of the detachment of Mexican troops and those in command. This hostility was manifested most unmistakably after the killing of Captain Crawford, and when full knowledge of the nationality and regularity of the troops under his command had been acquired by the Mexicans. Proofs of this contained in the depositions are found in the utterances and exclamations of the Mexicans, and in the insolent and outrageous detention of Lieutenant Maus as a prisoner until his release was caused by fear of an attack by his forces to obtain his rescue.

The treatment of Lieutenant Maus and his interpreter by the Mexicans was a gross violation of treaty stipulations and a breach of ordinary comity and international usages between friendly powers. The duty to inflict punishment on such offenders and make proper reparation is imposed upon the Government of Mexico, in whose territories and under whose authority the offenders professed to act.

I have full confidence and just expectation that the Mexican authorities will justly and firmly proceed in the investigation of this lamentable incident, and vindicate their own authority and secure justice to the United States and their officer who was slain in the courageous and honorable discharge of his public duty.

I am, &c.,

T. F. BAYARD.

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[Inclosure in No. 148.]

*General Crook to Adjutant-General Drum.*

HEADQUARTERS DEPARTMENT OF ARIZONA, IN THE FIELD,  
*Fort Bowie, Arizona, February 28, 1886.*

SIR: In compliance with instructions contained in your telegram of yesterday, I have the honor to forward herewith the full report of First Lieut. M. P. Maus, First Infantry, of the attack of the Mexican troops on the command of the late Captain Crawford while in camp near the Haros River, Sonora, Mexico, January 11, 1886. The report was received by courier this a. m.

Very respectfully, &c.

GEORGE CROOK,  
*Brigadier-General, Commanding.*

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*Lieutenant Maus to Capt. C. S. Roberts.*

CAMP ON SAN BERNARDINO RIVER, MEXICO,  
*February 23, 1886.*

SIR: I have the honor to submit the following more complete report of the attack of the Mexican troops on this command while in camp on the 11th of January, 1886, at that time it being impossible to make a complete or clear report.



After the fight with the hostiles on the 10th ultimo, about 12 o'clock m., the command went into camp a short distance above the place occupied by the hostiles at the time of attack. Such of their camp outfit as was useless to the scouts was destroyed. The command at this time was worn out by constant moving since the preceding day about 11 a. m., since which time it had had no food. Our packs, which had been left behind about 10 miles under the charge of Dr. T. B. Davis and some scouts, did not arrive that night, although they had been sent for. Some dried meat and venison found in the hostile camp served as a temporary relief to the command. Feeling secure from any attack and being overcome by fatigue, despite cold and hunger, the scouts seemed to rest well.

At this time our force present was as follows, viz: Capt. Emmet Crawford, Third Cavalry, commanding; First Lieut. Marion P. Maus, First Infantry; Second Lieut. W. E. Shipp, Tenth Cavalry; chiefs of scouts, Thomas Horn and William Harrison; hospital steward Nemick and 79 scouts.

At about daylight the following morning, while Captain Crawford, Lieutenant Shipp, and I were lying by a fire, Lieutenant Shipp and I being awake, loud cries of alarm came from some of the scouts who were lying down among the rocks. Lieutenant Shipp, Mr. Horn, and I ran forward at once to ascertain the cause of the alarm, when a severe fire of musketry was opened on our camp. The scouts first said it was Captain Davis' scouts, who were operating in Chihuahua, but in a few moments we found the attack was made by Mexican troops. We all endeavored to stop the fight at once, calling loudly to the Mexicans who we were—part of the scouts aiding, repeating clearly "*Soldados Americanos*." Quite a number of the scouts had run to the rocks without arms. One scout was severely wounded by this first volley while sleeping. The fire was returned by some of the scouts, although by but very few. Captain Crawford ordered it stopped entirely, and by the efforts of the officers it was in about fifteen minutes entirely stopped, the Mexican fire having also ceased.

Some Mexicans now advanced and I felt sure that the trouble was over. Captain Crawford and I then both left the rocks and went towards the nearest two Mexicans, who were only a few yards away. At one time I was within 10 yards of one of them. Captain Crawford could not speak Spanish, but made signs, saying in Spanish, American soldiers. I told them distinctly who we were, calling attention to our uniform. The captain had on a soldier's uniform and I wore a soldier's overcoat. These men, one of whom was an officer, looked alarmed, evidently surprised at the number of men in the rocks and kept moving away towards a hill a little higher than our own saying "No tiras, no tiras" (do not fire). I said "No we would not." The hill in question was already occupied by two or three of our scouts, who were lying very close and could not be seen.

Now, as all depended on no shot being fired, Captain Crawford directed me to go back and insure this. I turned back and had taken but a few steps when one shot sounded, followed immediately by a volley. The Indians say that this single shot killed Captain Crawford. I cannot say, for on reaching the rocks I turned to find him mortally wounded, he having fallen behind a rock which he had probably mounted after I left him, not two minutes before. Firing now became very rapid; four Mexicans, exposed at the time, were instantly killed. No power could stop the firing. It seemed, indeed, a hopeless task to stop this unnecessary bloodshed. We all tried to stop the fight, calling loudly to stop shooting, and that we were Americans and friends. At this time it was seen that a party of Mexicans had gone around to our right, evidently with the intention of taking possession of a high point of rocks about 400 yards distant which commanded our position. This, however, was also occupied by some scouts, and I sent more there. The Mexicans were driven entirely away. This move was certainly made in part during the time the firing had ceased on both sides. I am convinced that our firing, at first being very slight and then stopping, impressed the Mexicans that we were very weak.

Before the second attack commenced they could plainly hear all Mr. Horn said to them. The main attacking party was then on a high and well-protected point, in a direct line not over 200 yards away. The firing continued for half an hour or longer. Then the Mexicans, beaten and driven back, most of them out of rifle range and some of them a mile distant, answered our calls which had constantly been kept up.

During the fight the hostiles had assembled on the opposite bank of the river, about a mile distant. They (the Mexicans) were then told not to fire, and Mr. Horn, who speaks Spanish very well, went out at once, and I followed him and had a talk with the Mexicans. They assured me that they took us for hostile Indians, and deplored, in an apparently sincere manner, the unfortunate affair. They said they had followed for days this party of savages. This is untrue, as the trail of the hostiles came from west to east, we having struck it north of Sahuaripa about 25 miles, following it for six days east along the Ilaros River until we located the camp. Then moving north we had approached the hostile camp from the north. The trail they had followed was our own, made the night before the attack of the hostile village. The Mexicans coming from the north did not cross the hostile trail at all, a fact I know, as I fol-

lowed their trail part of the way on my return march toward Nacori. They asked questions about our fight with the hostiles, and were told that all the stock then around our camp was captured from the hostiles. They were told all the incidents of the fight. They could see where the hostiles were. I told them that if they wanted to pursue them, there they were; however, that they had asked for terms of surrender.

The Mexicans said that they were in a bad way, and wanted to return; that they were without food and transportation, and asked my aid to get them back; also that I permit the doctor to come and dress their wounded, reporting five. I consented to do this when he had come and attended to our own wounded, and also that I would loan them, upon a receipt, six of the captured horses, which were to be returned. But I told them that I could give them no rations as our supply was almost exhausted. They then gave me a paper claiming the attack a mistake. Copies of this paper, both in Spanish and English (as well as I can translate it), are appended hereto, and marked A and B, respectively. I told them that we were acting on the defensive; that we had to defend ourselves or be killed, and that they had paid no attention to our calls, which they claimed not to have heard. They insisted that I should give them also a paper to show no bad intention on our part, which I was willing to do, as we were attacked and there could be no reason why we should not acknowledge our firing.

As well as I can recall the Spanish words and their meaning, the paper was in substance as follows: That on the 11th day of January, 1886, while in camp, our command met, unexpectedly, the forces of the Mexicans; that we fired without retreating or turning away. They then asked permission to carry off their dead, and I went with them till they had carried off four bodies. When the packs came up, which was about an hour later, the doctor dressed our wounded, and at my request went over later and dressed the Mexican wounded. Our loss in the engagement was: Captain Crawford, mortally wounded, Mr. Horn, chief of scouts, slightly, and two scouts slightly wounded, and one severely. The Mexican loss, as far as I learned, was four killed and five wounded.

A squaw came in from the hostiles during the afternoon, saying they feared to come and talk while the Mexicans were near. I desired to get the Mexicans to move away, as I still hoped the surrender of the hostiles probable, discouraged as they were, without food and without shelter, since the capture of their camp. I therefore ordered six of the captured horses to be sent to the Mexicans the following morning, the scouts being unable to get them that night.

In the mean time we must move. Our rations would only last at best two days more; our supply of ammunition, *which was only one belt to each Indian*, had been largely consumed in the two fights, and, if needed, none to refill them. Our pack train was left in camp about 16 miles south of Nacori.

On the 8th ultime, while we were following the Indian trail, five scouts were sent back with instructions for the pack train to go to Nacori, get supplies, then move south till our trail was struck, and follow it. Under ordinarily favorable conditions in that rough country it might be a week reaching us at this time.

Having consulted with the doctor, I decided to move the next day, making litters to carry the wounded. Canes were procured in the morning, which, by wrapping in bundles of five, litters were made. Six horses had been sent the Mexicans, and they having declined to come down the hill to receive them, the horses were brought back. The scouts reporting some of the captured herd on the hills near the Mexicans, I sent Concepcion, the interpreter of the Apaches, and who is a Mexican by birth, to drive them back, it not being desirable to send Indian scouts. Being myself busily engaged, my attention was called to his loud calling. I went out, finding that he said he could not return. I went over farther, not understanding this, and as I alone could speak Spanish—Mr. Horn then suffering from his wound—I did not think of their detaining me. They said, Come up; we want you to see about the horses. I had forgotten about them. They spoke in a reassuring manner, saying they were friends, when I reached them. This party consisted of only a half dozen or more, and as it was raining they asked me to come under the shelter of a large overhanging rock, which was about 30 yards distant. Here I found about 50 men, most of them with their arms inclined against the rock. They said, Now we must settle this business about the horses; I said I was willing to do so; I told them that I had ordered horses to be sent them, and asked why they did not take them; they said they were not brought up to them. Concepcion was with me at this time. I said I would give them the horses, and that I would go and get them, and turned to go. They detained me. I said, then, Do you mean to say I cannot leave here? They answered in the affirmative. I then sent Concepcion to camp for the horses. He came back, bringing them. The Mexicans refused to take them, saying they were worthless. The scouts had selected the worst, and they were not serviceable. I then sent for more, but the scouts objected, as they considered these animals their property, and it was considered best not to insist on their being sent. I then said, Here are your horses; I can do no more. They



now demanded my right in Mexico. I told them by the right of treaty, which they ought to know. They asked for my papers. I had none, all having been left with the pack train by Captain Crawford. They said my men were not their friends. They then asked where the train was. I told them it was sent to Nacori for supplies. They then said that I should go to Nacori with them; that I should bring all the Americans to camp with them; that they wanted mules to take their wounded, and the doctor to care for them; and at Nacori, rations; but that the Indians must not camp with them, as they were afraid of the Indians.

My position was indeed helpless. I offered to send for my papers, and warned them that I was an American officer, and that my command, though Indians, were also American. I wore the uniform of my country, and I told them to beware how they treated me, that I had a lawful right to be in Mexico. I remembered that Captain Crawford had received a letter, the same day we struck the Indian trail, from the President of Sahuaripa, which acknowledged us Americans operating against the hostiles. It contained information concerning Indian depredations. I spoke to the Mexicans of this letter and they permitted Concepcion to go for it; it was read to them; but they seemed not to appreciate it (appended hereto, marked H).

During the time Concepcion was waiting for the letter in our camp, he told the Indians what the Mexicans said, and also that I was a prisoner; then their excitement became intense. They said they would *rather go out in the mountains than go with these Mexicans*. They began stripping for a fight, taking position in the rocks, shouting defiantly to them, shaking their fists at them, and using some Mexican words which they knew. They had been closely watching the Mexicans all the time. They said they did not fire for fear that Concepcion and I might be killed; and, indeed, if they had done so, I could not have blamed them. Here were these scouts, only a short time before most wisely reclaimed from their savage state and made American soldiers, showing a greater sense of honor and justice in their conduct than men who were supposed to be civilized. These Indians who had been given the task of hunting down the renegades, directing where they were to be found in Mexico, then finding their trail and guiding us day and night over a country so broken as to make the march even in daytime painfully laborious, till their stronghold was found, then having fought them and so discouraged them by taking away the few comforts that even an Indian must have, as to make them sue for terms of peace, it seemed that neither the uniform nor the protection of the United States could save them from the murderous attacks and annoyances of men they were taught to look upon as friends and allies.

The Mexicans, who were observing the scouts, now called my attention to them and their evident hostility towards them as indicated by their manner. I told the Mexicans that I was detained in their camp, and of course could not control the Indians where I was; but if back with my command, I could do so. A second fight must necessarily be very unfortunate in the condition the command was in at the time. Moreover, the commencement would, I am sure, have been the signal for my death and that of Concepcion. In fact, I had already felt we would not be allowed to return. Then I said, You had better let me return: I can control my men, and that I would on my word of honor send them six mules which belonged to the Government of the United States. They then said that I might go, but they kept Concepcion apparently as a guarantee.

I sent the mules and told them to release Concepcion, which they did. Order was now restored.

It was too late to move that day, and I had to lay over until the next day.

I had no further verbal communication with them. I wrote, however, a note saying, as well as I could in Spanish, that I would remain with my command, and would send for my papers; that if they demanded more of me they would cause trouble, and if they persisted in doing so, I would call on the military authorities of Sonora, and in compliance with my word that I would give them rations at Nacori, where they were going.

I was then informed that they would not interfere with me.

I also wrote for a receipt, which I had not yet received, for the mules that I sent them. A copy of this receipt is hereto appended and marked I.

I wrote them further that I was satisfied, but for them not to move at the same time that I did. (I kept no copies of those simple notes, as, indeed, I had no time to make them, and I wrote them in very crude Spanish, having no dictionary with me.) I am convinced that to the hostile demonstration of the scouts I owe my release, as the Mexicans certainly feared a fresh conflict and appreciated the necessity of my release.

I am willing to admit that the first attack was through a mistake as to our identity, for it was early and misty. I certainly desire to be just to these men, but it is impossible for me to believe that they were laboring under any such mistake at the time of the second attack, in which Captain Crawford received a wound which cost him his life,



The dishonorable and treacherous conduct of these men toward me after the fight show plainly their character. They had no right to demand anything of me. They attacked us while peacefully resting in camp.

In justice to this command, I have endeavored to give you here all the details of this most unfortunate affair.

I submit statements of Lieutenant Shipp, Chiefs of Scouts Horn and Harrison, and of Hospital Steward Nimick, of the interpreter Concepcion, which statements are hereto appended and marked C, D, E, F, and G, respectively.

I have, &c.,

MARION P. MAUS,  
*First Lieutenant First Infantry, Commanding.*

A.

[Translation.]

To-DAY, 11 January, 1886.

I, Santaña Perez, say that unexpectedly we have met the American troops and a party of Indian soldiers on the Rio Haros, and that we Mexicans fired only three volleys before either party ascertained our mistake.

SEÑOR CAPTAIN CRAWFORD.  
SEÑOR LIEUTENANT MAUS.  
SANTAÑA PEREZ.

B.

To-DAY, the 11th of January, 1886.

I, Santaña Perez, state unknowingly we have met on the Haros River with the force of Americans and of Indian soldiers, we coming the Mexicans, have fired, that without turning back any of us, for we could not see at the time.

CAPTAIN CRAWFORD.  
LIEUT. MAUS.  
SANTAÑA PEREZ.

C.

CAMP ON VIEJO RIVER,  
*Sonora, Mexico, January 20, 1886.*

SIR: I have the honor to make the following statement:

On the morning of January 10, 1886, Captain Crawford's command of Indian scouts captured the camp of the hostile Indians on the Haros River, in Sonora, Mexico. There were present eighty-one scouts; Captain Crawford, Third Cavalry; First Lieut. M. P. Maus, First Infantry; Second Lieut. W. E. Shipp, Tenth Cavalry; Mr. Thomas Horn, Mr. Wm. Harrison, and Second-Class Hospital Steward Nemick, Troop G, Fourth Cavalry.

The command went into camp near the old hostile camp, and Captain Crawford sent two scouts to bring up the pack mules, which had been left in rear the preceding day.

About 7 a. m., January 11, the scouts cried out that a great many Mexican soldiers were coming. Lieutenant Maus, Mr. Horn, and I ran forward to let them know who we were. Captain Crawford was lying down and did not get up immediately. The Mexicans commenced firing on the scouts at short range. The latter took refuge in the rocks and returned the fire. Lieutenant Maus, Mr. Horn, and I meanwhile kept calling out who we were. Calls had been made before the firing commenced. We tried to stop the shooting on both sides, but the Mexicans were so near that it was a matter of absolute necessity for the scouts to protect themselves.

The Indians did very little shooting at this time and acted strictly on the defensive. After some time the firing ceased, and we continued calling out that we were American soldiers. At this time I saw Captain Crawford standing on a rock about 20 yards in the rear of me; a small party of Mexicans was near, and while Mr. Horn was talking to them in Spanish, they without warning opened fire on us, giving Captain Crawford a mortal wound in the head and slightly wounding Mr. Horn in the arm. The men who did this shooting were not 30 yards from us, and I cannot believe that

they thought we were Indians. Captain Crawford's entire person was exposed, and his face and dress could not be mistaken for those of an Indian. He wore a soldier's uniform and a brown campaign hat, and he had a good deal of beard on his face. Mr. Horn was dressed in civilian's clothes and while talking held his hat in his hand. I was near him, and wore a brown canvas coat, blue trousers, and a brown hat. I was unarmed.

I know of no demonstration on the part of the scouts which could furnish a cause for this attack in the midst of our talk. The firing then recommenced on both sides, and continued at intervals for more than an hour. Captain Crawford was not conscious after he was shot, but the remaining officers and Mr. Horn did their best to put an end to the fight, continually restraining the scouts and calling to the Mexicans. We had a very strong position on the rocks, and the Mexicans, failing to dislodge us, finally withdrew to a hill about 500 yards distant.

Mr. Horn, who speaks Spanish well, then succeeded in getting an answer to his repeated calls. He went unarmed to the Mexican camp and was soon followed by Lieutenant Maus. From this time there was no more firing. One scout was severely wounded while in bed at the beginning of the fight and two others were slightly wounded; that they did not suffer more was due to the protection afforded by the rocks. I saw three dead Mexicans. The scouts who were near Captain Crawford say that one of these was the man who shot him. When Lieutenant Maus went to the Mexicans after the fight he left me in charge of the camp, and I had no communication with the Mexicans then or afterwards. We left this camp on the morning of January 13.

The scouts behaved admirably. Although we tried to stop the fight it was impossible to prevent some firing by them, but they did no more than was necessary for self-defense. I saw no white men fire. I feel constrained to make special mention of the admirable services rendered by Mr. Horn, and of his bravery and coolness, although wounded.

The Mexicans may have originally thought our scouts were hostiles, but there was no reason why they should not have immediately discovered their error. The presence of six white men, whom they were obliged to see, and the continued calls made to them in Spanish and English, which they certainly heard, make an excuse impossible.

The shooting of Captain Crawford by a man not 25 yards distant seems a deliberate assassination.

Very respectfully, &c.,

W. E. SHIPP,  
*Second Lieutenant, Tenth Cavalry.*

First Lieut. M. P. MAUS,  
*First Infantry, Commanding Second Battalion Indian Scouts.*

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D.

*Statement of Mr. Thomas Horn concerning the engagement between American and Mexican forces, about 60 miles southeast of Nacori, Sonora, Mexico, January 11, 1886.*

CAMP ON SAN BERNARDINO RIVER,  
*Mexico, February 23, 1886.*

About the time it was daylight on the 11th of January, while in camp, I heard the Indians say there were Mexican soldiers coming, then in about two minutes that they were Major Davis' scouts, and they then shouted to them, thinking they were Major Davis' scouts, in Apache language; and the Mexicans, which they proved to be, answered by a volley of shots. We had then found out that they were Mexicans. Captain Crawford halloosed to me to go ahead and speak to them. By that time they were within a hundred yards of our camp. I spoke to one of them, and he had his gun up to his shoulder; he took it down, looked at me, then took deliberate aim and fired at me, wounding me in the arm. Then the Indians told me that Captain Crawford was killed. Then the Indians began fighting in earnest, as it appeared that the Mexicans wanted to kill us all. Up to this time the Indians had fired very little. I shouted to the Mexicans for an hour and could get no answer; and after we had driven them all away from us they answered. I told them to stop shooting and I would come over. I told them we were an American force of Indian soldiers, with American officers; that we had fought the hostiles the day before, and that the animals we had were taken from them.

Lieutenant Maus came over and spoke to the officer in command of the Mexican troops, which they said they were. They said that they thought we were hostile Indians, and I asked them if they did not know an American from a broncho at 25 yards. They then gave Lieutenant Maus a paper, saying they did not recognize us, and said

they saw the Indians' heads in the rocks, taking them for hostiles. But I was on a rock in plain sight, and so were Captain Crawford and Lieutenant Maus, at the time. I did not see Captain Crawford at the time he was shot, as I was ahead in the rocks where I had been sent, and was hid there from his view by a ledge of rocks, where we went into camp. Several Mexicans said if we had not enough to come out and fight again. I told them we were sent down by General Crook to fight hostile Indians, not Mexicans.

At first I believe that they may have been mistaken at that time of day, it being misty. But when they came to camp all firing on the part of the Indians had been stopped, and they (the Mexicans) could hear what I distinctly said when I told them we were American soldiers, even those (and there were a large number of them) who were sheltered in the rocks 300 yards away.

The Mexicans accused me of killing their captain, both to myself and Lieutenant Maus, which, though false, proves that they recognized me at the time.

THOMAS HORN,

*Chief of Indian Scouts and Spanish Interpreter.*

### E.

*Statement of Chief of Scouts Harrison in regard to the attack of the Mexicans on Camp of Scouts, January 11, 1886.*

CAMP NEAR SAN BERNARDINO,  
Mexico, January 25, 1886.

While in camp on January 11, 1886, about seven o'clock a. m., I heard the Indians calling Mexicans. Captain Crawford said to Lieutenant Maus to go ahead and see about it. Lieutenants Maus and Shipp and Mr. Horn ran forward to the point of rocks. Before any talk I heard volleys of firing, which was scarcely returned by the scouts, many of whom had gone out to look without their guns. The firing soon ceased for about ten minutes. The orders were for all of us to prevent any firing from the Indians. Loud calls were made by Lieutenant Shipp and Mr. Horn, saying we were American soldiers. Conversation took place between Lieutenant Maus and two of the Mexicans, Captain Crawford telling Lieutenant Maus what to say. These men were very close. What was said I don't know, for I don't understand Spanish. The Mexican spoken to answered *si, si* (yes, yes), but still kept going off to the left under a tree. One shot was then fired, followed instantly by a volley. The sound of this first shot came from the direction where I first saw the Mexicans. Firing now became severe on both sides, the Mexicans running off, many of them 1,500 yards away. The fire, after about half an hour longer, entirely stopped. Then Mr. Horn went over and a talk took place, after which there was no more firing. I am sure the Mexicans knew who we were before the second attack and the shooting of Captain Crawford.

WILLIAM HARRISON,

*Chief of Indian Scouts.*

### F.

*Statement of Second Class Hospital Steward Frank J. Nemick, private, Troop G, Fourth Cavalry.*

CAMP ON SAN BERNARDINO RIVER,  
Mexico, Feb. 23, 1886.

On the morning of January 11, 1886, about good daylight, while in camp on the Haros River, I heard the scouts crying out, "Mexican soldiers!" At the time Captain Crawford told Lieutenant Maus to go and speak to them before they came to camp. Hardly had he started forward when severe firing commenced from the Mexicans into our camp. There were very few shots fired by the scouts at the time, few having guns, as they ran forward to see without their guns.

When the firing opened the captain and I sought shelter, he telling me not to fire unless they came into camp. Firing ceased for a few seconds. The captain heard Mr. Horn speaking and thought the Mexicans understood who we were. The captain and I then started forward, and when we had gone about 15 steps the grass caught near one of the fires, and the captain told me to put it out.

I had put out the fire and was starting up to where the Mexicans were coming up towards camp, when the fire in the grass broke out again. Just as I started to put



it out again, I saw the captain mounting a big rock which was in plain sight of the Mexicans. At the time I was putting out the fire, stooping down with my back to a ridge, a bullet whistled past me, striking about a foot to my right in the fire. I got up, looked around, and saw a Mexican beginning to reload his gun that he had fired. I then took to the rocks for protection with my gun. Just before reaching the rocks he fired at me again, missing me. He was killed by an Indian scout. I had my back turned to the Mexican with my undress uniform at the time. I could not have been taken for a hostile Indian.

The firing lasted, I think, about two hours, and whenever any one exposed himself the Mexicans fired from a point about 200 yards distant.

Orders had been given by the captain and chief of scouts for the Indians to stop firing. I heard continual calling in Mexican by Lieutenant Maus and Mr. Horn, saying we were American soldiers. The Mexicans did not answer until driven off, most of them out of rifle range from camp. After the fight the Mexicans remained on the adjacent hills.

I assisted Dr. Davis in dressing the wounds of the Mexicans after the fight, four in number.

FRANK J. NEMICK,

*Private, Troop G, Fourth Cavalry, Second-Class Hospital Steward.*

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G.

*Statement of Concepcion, sergeant Company E, Battalion of Indian Scouts, Mexican interpreter of the Apache language.*

CAMP ON THE SAN BERNARDINO RIVER,  
*Mexico, February 23, 1886.*

Mr. Horn and I went with six horses of the captured stock, by order of Lieutenant Maus about two-thirds of the distance to where the Mexicans were, calling to them to come and take them; they said to bring them up there. Mr. Horn said he was no servant for them, and if they would not take them they would have to arrange with the lieutenant. They refused to come and get them, and we went back to the camp with the horses.

The next day I went alone to get some of the animals of the Indians that had gone over in the Mexican camp. The Indians were afraid to go. I went over and asked the Mexicans if they had seen the animals. They said they had only seen one. They asked why the lieutenant did not come over and fix about the horses. I said: "Why don't you go and see him? He is looking after the captain, who is wounded. I am going after my stock." Their captain then said to his men, "Don't let this man go away from here; he must die here with us." I said: "What I am going to tell you is the truth. The most of you are gray-headed like I am. We have one God and only one life. When the time comes we will die."

In a little while the captain made me get on a rock and call Lieutenant Maus. I got up and called him, saying I was kept there and could not come until he came and fixed about the horses. Then the lieutenant came, the Mexicans saying, "It is all right; come on, we only want to arrange about the horses." He came up, and they said, "Come behind a rock close by; it is raining and we want shelter." He and I went behind the rock and over fifty Mexicans surrounded us, making him sit down; they said, "We want to arrange this business." The lieutenant (Maus) said, "All right; hurry up, for I am in a great hurry." They said they wanted horses. He said, "I sent some; why did you not take them?" They said they did not take them because he did not send them clear up to them. He said he would get them the horses, and sent a note by me to camp for them. I told them that the best ones were back of their camp, but they said there were none there. I told them I did not lie, that the horses were there. They sent a man out for them, and he brought a mare. I then went and got five more, but when they saw them they would not take them, saying they were no good. Lieutenant Maus said he could do no more. They said they were going to Nacori with us; that the lieutenant, the doctor, and I should stay with them; and that they wanted rations and mules to carry their wounded; and that the Indians should not camp with them. They said we had no right in Mexico, and asked Lieutenant Maus for his papers. He said that they were left with the pack train. He said he had a letter from the president of Sahnaripa, and he sent me for it.

When I went back to camp I told the Indians that the Mexicans were going to Nacori with us. They said they would not go with the Mexicans, but would go out into the mountains sooner. When the Indians were mounting the rocks and stripping, the Mexicans called Lieutenant Maus' attention to it. He said, "Well, you keep me here. I can't control them while here. They are not like white soldiers." The lieutenant

started to go, but Mexicans said, "No." He promised them if they would let us go back to our camp he would lend them six mules. They then let him go, but they kept me a prisoner until he sent the mules; then they let me go, telling me all was right.

CONCEPCION, <sup>his</sup>  
+  
mark.  
*Apache Interpreter.*

Signature witnessed by me this 24th day of February, 1886. I certify that this is a correct translation of the statement of Concepcion, Apache interpreter.

THOMAS HORN,  
*Chief of Scouts, Spanish Interpreter.*

## H.

[Special correspondence of the prefect of the district of Sahnaripa.—Translation.]

REPUBLIC OF MEXICO, *January 2, 1886.*

Señor Captain EMMET CRAWFORD (wherever he may be):

MY DEAR SIR: I have had the honor to gratefully receive your letter of yesterday, in which you notify me you are marching a force of Americans and Indians towards Sahnaripa, and (requesting) that I send you notice of the movements of the savages and of the rancheros that may be near here.

In obedience to your request I will state that the opinion of those persons best informed regarding the ground is that the Indians may be found scattered about the Sierra de Badesi at the junction of the rivers, from which point they send parties to the neighborhood of those people where they commit their murders and depredations.

As lately as yesterday I received a note from the Hacienda de Guisamopa, 12 leagues distant to the southeast from this point, in which they said the day before they had heard Indian rumors. By that you will see the savages are scattered out in small parties.

I send a small escort of fourteen nationals, with Capt. José Gonzales, the bearer of this, who will give you verbal accounts of these matters.

This occasion gives me the opportunity to subscribe myself, your friend and faithful servant,

A. F. PERCHOS.

## I.

JANUARY 12, 1886.

To-day I received of Lieut. Maus, U. S. Army—

Six (6) mules.  
Four (4) *aparejos*.  
Two (2) saddles.  
Six (6) blankets.  
Eight (8) ropes.  
Four (4) coronas.  
Two (2) bridles.  
Five (5) halters.  
Two (2) mantos.

SANTANA PEREZ.

A true copy.

\_\_\_\_\_  
*Second Lieutenant, First Infantry.*

No. 302.

*Mr. Morgan to Mr. Bayard.*

No. 184.]

LEGATION OF THE UNITED STATES,  
*Mexico, March 31, 1886. (Received April 9.)*

SIR: I have read with very attentive care your No. 148, of the 20th instant, together with the accompaniments, relative to the circumstances attending the attack made by Mexican troops upon a detachment of

American soldiers near the Haros River, Sonora, Mexico, in which Captain Crawford was killed, and expressive of the serious character of the regrettable incident.

Receiving no specific instructions as to the disposition to be made of the dispatch and inclosures referred to, I have judged it your intention, by their transmission, to complete the records of the case in this legation, and have accordingly filed them in the archives.

Since Mr. Jackson's No. 158, of 23d ultimo, nothing has been heard from the Mexican Government relating to the subject of this note.

I am, &c.,

J. L. MORGAN.

No. 303.

*Mr. Bayard to Mr. Morgan.*

[Telegram.]

WASHINGTON, April 12, 1886.

Mr. Bayard informs Mr. Morgan that his instruction No. 148, of March 20, 1886, was intended for communication to the Mexican Government as reciting facts which might aid it in the investigation which it had undertaken as to the killing of Captain Crawford at Teopar, and as showing the necessity of punishing those who were guilty of his death and of rendering such occurrences impossible hereafter.

No. 304.

*Mr. Morgan to Mr. Bayard.*

No. 201.]

LEGATION OF THE UNITED STATES,  
Mexico, April 14, 1886. (Received April 22.)

SIR: Referring to my No. 184 of 31 ultimo, I have the honor to acknowledge the receipt, at 10.30 p. m. on 12th instant, of your telegram, and to say that yesterday, in obedience to your instructions, I addressed a note to Mr. Mariscal (see inclosure), which is practically a copy of your No. 148, accompanying a copy of Lieutenant Maus's report and papers connected therewith. \* \* \*

While the tenor of my note to Mr. Mariscal is energetic, I feel assured that it will meet with your approval, (1) as the delay of the Mexican Government in replying to Mr. Jackson's note of 15th February, last, upon this subject, would seem to be unduly protracted; (2) as President Diaz's reference to this regrettable incident, in his message to Congress on the 1st instant, excused the Mexican troops upon the express ground that such Indian forces as our scouts were not included in the convention for the reciprocal crossing of the frontier by the regular troops of both Governments when in close pursuit of hostile Indians, and (3) as it is expressed in your own language.

I am, sir, &c.,

J. L. MORGAN.



(Inclosure in No. 201.)

*Mr. Morgan to Mr. Mariscal.*LEGATION OF THE UNITED STATES,  
*Mexico, April 13, 1886.*

SIR: In obedience to instructions from my own Government, I have the honor to transmit to your Excellency a copy of Lieut. Marion P. Maus' report in the matter of the killing of Captain Crawford, Third United States Cavalry, while in camp near the Haros River, Sonora, Mexico, by Mexican troops.

The killing of Captain Crawford is a very serious affair, and should be investigated with great care and thoroughness.

The enlistment of Indian scouts in the United States Army was especially to provide means appropriate to the end in view, for which express conventions exist between Mexico and the United States, *i. e.*, to pursue and capture hostile Indians who were not to be suffered to find an asylum in the territory of either Republic. The broken country and uninhabited regions along the boundaries of the two countries made the movement of other troops practically futile against such hostile fugitive Indians, and the employment of Indian scouts presented almost the only means of successfully subjugating the Indian bands who ravage the thinly-settled region along the Mexican border.

But such Indian scouts are regularly enlisted, paid, armed, and commanded. They are part of the lawful Army of the United States, and were, on the occasion of Captain Crawford's death, under his command, and were in close pursuit and in the very act of ending successfully a vigorous campaign against a dangerous body of hostile Indians by the capture of Geronimo and his band, when they encountered, unfortunately, the Mexican forces, at whose hands this dreadful injury was sustained.

The testimony of Lieutenant Maus, inclosed herewith, who succeeded Captain Crawford in command, shows, with marked emphasis, hostility to the United States forces on the part of the detachment of Mexican troops and those in command. This hostility was manifested most unmistakably after the killing of Captain Crawford and when full knowledge of the nationality and regularity of the troops under his command had been acquired by the Mexicans. Proofs of this contained in the depositions are found in the utterances and exclamations of the Mexicans, and in the insolent and outrageous detention of Lieutenant Maus as a prisoner until his release was caused by fear of an attack by his forces to obtain his rescue.

The treatment of Lieutenant Maus and the interpreter by the Mexicans was a gross violation of treaty stipulations and a breach of ordinary comity and international usages between friendly powers. The duty to inflict punishment on such offenders and make proper reparation is imposed upon the Government of Mexico, in whose territories and under whose authority the offenders professed to act.

My Government entertains full confidence and the expectation that the Government of Mexico will justly and firmly proceed in the investigation of this lamentable incident and vindicate their own authority, and secure justice to the United States and their officer who was slain in the courageous and honorable discharge of his public duty.

I avail, &amp;c.,

J. L. MORGAN.

No. 305.

*Mr. Morgan to Mr. Bayard.*

No. 207.]

LEGATION OF THE UNITED STATES,  
*Mexico, April 22, 1886. (Received May 1.)*

SIR: Referring to my No. 201, of 14th instant, I have the honor to enclose herewith copy and translation of a note from Mr. Mariscal, in the matter of the killing of Captain Crawford while in camp near the Haros River, Sonora, Mexico, by Mexican soldiers, in which he says he was about to reply to Mr. Jackson's dispatch of 15th February last, when he received my communication of 13th instant, which made further inquiries necessary, and that as soon as this data is received the full report will be transmitted to me.

I am, sir, &amp;c.,

J. L. MORGAN.

[Enclosure in No. 207.—Translation.]

*Mr. Mariscal to Mr. Morgan.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, April 21, 1886.*

MR. CHARGÉ D'AFFAIRES: I have the honor of acknowledging receipt of your note of 13th instant, with which you were pleased to send me a new report from Lieutenant Maus relative to the unfortunate occurrence of Teopar.

I was on the point of transmitting to you during these days a note explaining the result obtained from the inquiries which were ordered to be made by this Government regarding the antecedents and circumstances connected with the said occurrence; but as this new report from Lieutenant Maus refers to incidents to which less importance had been given before, the President has deemed it opportune to have those inquiries amplified as soon as possible, to which end the necessary orders have been issued.

As soon as this amplified report is received I shall have the satisfaction of transmitting to you all the original information upon the case; that which is already in the hands of this department as well as whatever may be subsequently received, making thereupon such comments as, in my opinion, may be just and adequate regarding the sad event which it is sought to investigate.

I reiterate to you, &c.,

IGN'O MARISCAL.

No. 306.

*Mr. Bayard to Mr. Morgan.*

No. 183.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1886.*

SIR: I inclose for your information a copy of a note\* from the minister of Mexico here, dated the 29th ultimo, and of my reply † of the 4th instant, concerning the killing of Capt. Emmet Crawford in Mexico recently.

I am, &c.,

T. F. BAYARD.

No. 307.

*Mr. Morgan to Mr. Bayard.*

No. 230.]

LEGATION OF THE UNITED STATES,  
*Mexico, May 25, 1886. (Received June 7.)*

SIR: Referring to previous correspondence relative to the attack made by Mexican soldiers upon United States troops, near Nacori, on January 11, 1886, in which Capt. Emmet Crawford lost his life, I have the honor to transmit, herewith inclosed, copy of a note from Mr. Mariscal, with four accompaniments, under date of 19th instant, but not received till Friday evening last, the 21st.

Appreciating the importance of the promptest possible dispatch of these documents, I have left no effort unexerted to accomplish that end, and I have personally compared the inclosed copies with the originals.

This study, which of necessity has been unsatisfactorily hurried, has left upon my mind impressions which I respectfully submit, with the

\* Printed *infra*, No. 341, page 726.† Printed *infra*, No. 342, page 727.

hope that they may facilitate you in the perusal of the voluminous inclosures.

The testimony produced by the Mexican Government endeavors to establish—

First. That Captain Crawford's command was not engaged with the hostile Apaches at, or near, Teopar, on January 10.

The Mexican commander, Santana Perez, upon receiving the report of Lieutenant Maus, charges it with many inexact and false statements. He positively denies that there was an engagement between our troops and the hostile Indians on January 10, saying that he kept a close watch all that day upon Captain Crawford's command from an elevated position called Divisadero, and that he heard no firing and saw no movement indicative of battle. The evidence of ten volunteers from Degollado (accompaniment 1) is to the effect that the Divisadero was reached *about noon* on the 10th, and that the scouts' camp was *visible only with field glasses*, while Ramon Chavarria (accompaniment 3) and Francisco Araiza (same accompaniment) states that the Divisadero was reached *about sunset*, and that the scouts' camp was about 5 leagues distant.

Second. That only *one attack* was made by the Mexican soldiers upon the American troops at Teopar.

The statement made by Lieutenant Maus that two different attacks were made by the Mexican soldiers upon Captain Crawford's command is *denied* by the Mexican deponents, and they assert that but one attack was made.

Third. That the Indian scouts first fired upon the Mexicans.

The evidence contained in accompaniment 1 indicates the extreme caution observed during the march of the Mexicans on January 10, and their night march of the same day proves their eager desire to meet their supposed (so claimed by them) hostile foe.

On the morning of the 11th, so near were the Mexicans to our scouts that they give, in accompaniment 1, words called out by them (the scouts), and state that in the first volley fired by our troops, Juan de la Cruz (Mexican) fell, pierced by thirteen balls, "*casi á quema-ropa*;" still it is maintained that the scouts fired first.

Mr. Mariscal suggests that Captain Crawford may have been shot by his own men; but this theory would seem untenable in view of the evidence of accompaniment 2, which clearly demonstrates that he was shot in the forehead, and he was facing the Mexicans.

Fourth. That no evidence of military character was worn by any of the officers of the United States Army or their men on the occasion of the encounter at Teopar.

Fabian Martinez and Juan J. Ramos testify (see accompaniment 2) that Captain Crawford wore black pantaloons, while the other deponents state that none of the officers wore any evidence of military character.

Fifth. That the Mexican commander, Santana Perez, denies having asked Lieutenant Maus for rations for his command.

José Antonio Varela (see accompaniment 1) states that the Mexican volunteers, on their expedition, carried as provisions only "*pinole*" (parched corn), and that article in a small quantity. They had been marching sixteen days when they encountered our troops at Teopar, and the limited supply of their provisions may be estimated from the testimony of Ramos and Vidal (see accompaniment 3); that the *want of food* and ammunition caused their commander, Perez, to grant a parley to Lieutenant Maus.



Sixth. That Lieutenant Maus was *detained* in the Mexican camp at Teopar.

The conflict of evidence as to the detention of Lieutenant Maus, which appears in accompaniment 4, would be impossible of solution, did not Mr. Mariscal concede it to be a fact. He (Mr. Mariscal) indorses the two motives inducing the detention. The first, that Lieutenant Maus was not attired in uniform, seems conclusively overthrown by the evidence contained in accompaniments 2 and 3. The second would be weakened, if not destroyed, by the fact that Perez (see accompaniment 1) states that the animals were delivered upon his receipt for the same, and does not refer to the killing and skinning of said animals until he makes his *third* deposition (see accompaniment 4), when he joins his comrades in that charge.

Seventh. That Captain Crawford's scouts are responsible for numerous robberies and murders committed in Northern Mexico.

The testimony contained in accompaniment 3, which endeavors to prove that our scouts stole the animals found in the possession of Lieutenant Maus' command, and which he says he captured from the hostile Indians, is but hearsay or assumption, such language as "is to be supposed," "is undoubted," "is almost assured," "is believed," being a fair sample of that *evidence*.

It might be well here to remark that the evidence of Amaya and Casavantes, in accompaniment 3, is, they frankly acknowledge, based upon hearsay only.

Mr. Mariscal, in his note, says that he will, in a few days, transmit further testimony proving that Captain Crawford's scouts, and not the hostile Indians, are responsible for the depredations on the Mexican frontier, and that as soon as the claims for damages sustained by Mexicans at the hands of these Indians (scouts) are formulated, although suffered prior to the encounter at Teopar, the Mexican Government will have the unavoidable obligation of asking that they be indemnified. This promised testimony, he says, will prove, by an admission made by Lieutenant Maus to Casimiro Grajeda, police commissary of Nacori, and to Mr. Emilio Kasterlitzki, that the death of Captain Crawford was the result of an accident—of a mistake.

Eighth. That the passage of the frontier by the Indian scouts is in contravention (in letter and spirit) of the treaty between the two nations for the reciprocal crossing of the boundary line by the regular Federal troops of both Governments in pursuit of hostile Indians.

Although this treaty has been *twice* prorogued, this objection was not presented by the Mexican Government at the time of such extension, notwithstanding the fact that the employment of Indian scouts in the frontier service of the United States Army would, at least, seem to have been notorious.

The foregoing observations I beg respectfully to submit for your wiser consideration.

I am, sir, &c.,

J. L. MORGAN.

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[Inclosure 1 in No. 230.—Translation.]

*Mr. Mariscal to Mr. Morgan.*

STATE DEPARTMENT, MEXICO, May 19, 1886.

MR. CHARGÉ D'AFFAIRES: In conformity with what I had the honor to communicate to your legation in my note of the 18th of February last, it was ordered that the department under my charge institute a scrupulous investigation in regard to the un-

fortunate encounter had on the 11th of last January, at a place called Teopar, near Nacori, between a volunteer force raised in the State of Chihuahua and a numerous band of Apache and Chiricahua Indians, with which latter were some American soldiers under the command of Captain Crawford. The different proceedings had for this object are now in my possession, and it is proven, in a manner conclusive to my judgment, that during that lamentable affair the Chihuahua volunteers did not commit any offense deserving of punishment or indemnification, and I permit myself to make extracts from the charges made by Lieutenant Maus against said Mexican force, as also to state the result of the accumulated proof in this delicate business.

The charges which Lieut. Marion Maus preferred in his report, dated the 21st of January, and submitted to Capt. C. S. Roberts, may be summed up in the following manner:

(1) That after the Mexican force had promised to discontinue the firing because they had been made acquainted with the fact that they did not have to deal with hostile Indians, and when it had retired to a hill at a short distance, Captain Crawford ordered him (Lieutenant Maus) to go and assure himself that no more firing should take place; that he so did; and that thereafter the Mexicans repeated their firing. That Mr. Horn and Lieutenant Shipp, who at the same time were at other points telling who they were, had to seek places of safety from the desperate attack, and that when he returned to the camping place he found Captain Crawford stretched upon the ground, wounded in the head.

(2) That the Mexicans knew that they were firing upon American soldiers. "It appears almost impossible," so he says, "that these people should have continued their firing when they knew who we were; but now I believe they expected to make us, by their superior force, retreat and thus possess themselves of our camp and effects."

(3) That the Mexican force requested of them a few horses for the transportation of their wounded, to which he acceded, as it was within his power to do so. That the Mexicans were not satisfied with those that he gave them; and that to arrange this business he held a consultation with said force by going to their camp. That they then surrounded him, he says, with threatening looks; that they demanded of him the papers giving him his authority. He was not able to show them, so he adds, because Captain Crawford had left them behind with the pack-train, and that the Mexicans only permitted him to retire when he offered them on his word of honor to send them good animals, and above all, because the Indian scouts were clamoring for the fight to continue.

It must be taken into account that Lieutenant Maus explains the arrival of the force under Captain Crawford at Teopar, saying that on the preceding day they had there had a fight with some hostile Indians, and that he was then pursuing them; that he had wounded some Indians by the first volleys, but had not been able to capture any of them, and that they had left no other trail in this direction than some blood which was found here and there. The eye-witnesses on the Mexican side deny positively that the fight took place between the American force and the hostiles, and made their statements in great detail. Here I must beg that you will please note that Lieutenant Maus confesses:

(1) That the scouts of the American force *kept up firing sufficient not to allow the Mexicans to draw near.*

(2) That so soon as the former made itself known the Mexicans suspended their firing and retired to a hill in the near vicinity.

(3) "That it seemed to me that the sorrow expressed by the Chihuahuan force on account of the unhappy affair was *very sincere.*"

It is also interesting to observe that the firing had ceased when Captain Crawford ordered him to go and make sure that no more firing should be done. What could have been the motive for such order when the Mexican force had already retired? And could it not have been possible that while Lieutenant Maus went towards the Chihuahua volunteers Captain Crawford may have been intentionally or unintentionally wounded by the Indians while he was trying to get them to cease firing? May it not be supposed also that the Indians wished also to wound Mr. Horn for the purpose of freeing themselves of the few American soldiers commanding them and then to return to their customary raiding? At all events it is very strange that there should not have been left some sign of the fight, which, it was said, took place on the preceding day between the American force and the hostiles, and that Captain Crawford, whom Lieutenant Maus left at the camp, should have been mortally wounded, and that Lieutenants Maus and Shipp should not have been wounded although they were walking toward the expeditionary force of the state (Chihuahua).

Having made this superficial examination of the first report of Lieutenant Maus, I shall now make different extracts from the principal affidavits which have been made regarding this affair by order of this government.

At the instance of the district attorney of Chihuahua, Santana Perez, commander of the expeditionary force of the State, testified before the judge, among other things, the following:

That he had been commissioned by the government of Chihuahua as a volunteer officer to raise a small force, also volunteers, for the purpose of pursuing the hostile Indians which were then invading the territory of the same state.

That in the discharge of this duty he formed a company of 128 men, for although the government authorized and ordered him to raise one of 150, yet the number was reduced as above indicated, because they had to send back with a guard the animals which they brought with them and which could not follow the troops on account of the very broken roads that could only be traversed on foot with great difficulty.

That on December 26 last the company having been duly organized, he started on the march towards the mountains in pursuit of the Apaches, who were reported to be there.

That from above date they continued their march with all the precautions suggested by experience, as they momentarily expected to encounter the enemy.

That on January 9, at a point called Arroyo Seco (Dry Gulch), near Sapachic, they struck the trail of the Indians, and followed it as far as Arroyo del Carrizal, where they encamped for the night; that on the following day (the 10th) they continued the march over the same trail, and soon arrived at Divisadero Mountain, whence they could see the rancharia or camp of the Indians.

That they waited till nightfall with the intention to attack them on the following morning.

That after sundown they took up the march, and on the following day (11th) at about 7 a. m., taking up a convenient position, they commenced firing upon the rancharia or camp of the Indians, after noticing that they had been seen, the Indians yelling and vociferating.

That deponent and his companions were convinced that these were wild or hostile Indians; because from the near proximity they could distinguish them, and they recognized them by their voices when they challenged them (the Mexicans) to fight; that therefore they kept up a fire upon them for about one hour.

That he did not know whether his companions fired before the enemy did so, because the volleys were almost simultaneous; but that he has no doubt that the Indians discharged their rifles toward him before he fired, and that therefore he saw himself obliged to return the fire.

That during this time there were killed: Mauricio Corredor by reason of a bullet received in the breast, which penetrated him diagonally from right to left; Juan de la Cruz, who received thirteen bullets at very close range; Luz Estrada and Martiniano Madrid.

That thereupon a beardless young American came forward, giving them to understand that they were on a campaign—i. e., that they were not hostile Indians, but pursuers of such—and thereupon he (affiant) ordered the firing to cease.

That meanwhile the Indians had commenced to flee.

That thereupon the fugitives were recalled by the young American and another lieutenant, and that they then returned.

After the cessation of the fight it was found that above-mentioned young American was wounded in the right arm, and that the captain of the Indians, also an American, was wounded in the head.

That the Americans had with them no military insignia whatever; that the young man who was wounded in the arm came forward in an overshirt; and the lieutenant wore a black sack coat without braid or any distinctive insignia.

That the Apaches were of a hostile tribe, their dress being nowise different from that of the hostiles; wearing breech-clouts, handkerchiefs tied over their heads, long hair, and moccasins.

That the Americans also wore moccasins.

That in the American camp were found animals stolen by the Indians upon national (Mexican) territory; that of these he recovered three donkeys, one mare, six mules (four with pack apparatus and two with saddles), which he turned over to the State government.

That he exhibited a certificate and some notes, written with lead-pencil, of the American lieutenant, by which he proved the places from which the animals were obtained. (See Appendix No. 1.)

That after the fight the greater portion of the stolen animals remained in the possession of the Americans because they refused to give them up, claiming that they were on a campaign in pursuit of Indians, and that they delivered the above-enumerated animals only because they were needed to transport the wounded.

That the Indians had stolen animals at Las Varas, Yepome, and Dolores, and had killed the owner of Las Varas, an American; that at Dolores they had killed three persons; and



that affiant had learned of these acts before he started on the campaign, from reports made to the State government and from public rumor.

That said depredations were committed by the same Indians attacked by deponent, because at that time no other Indians were in the Sierra Madre.

And that the following soldiers of his force were wounded during the fight at Teopar, and were then under medical treatment at Guerrero: Marcos Gonzales, Herculano Coz, Apolinar Zapien, and Francisco Romero.

The same Santana Perez, having been made acquainted with the first report of Lieutenant Maus, which was read to him by order of the judge, stated:

That said report contains many inaccuracies and falsehoods.

That it is an absolute untruth that Captain Crawford, his subalterns and troops of Apache Indians, had any encounter on the 10th of January, as stated in the report, with other hostile Apaches; because he (Santana Perez), after following the trail of the Indians, being in a good position upon Divisadero Mountain, did not lose sight of Crawford's Indians all that day (10th), and did not observe any movements nor did he hear a single shot; but on the contrary, he took notice of their quietude, of which he took advantage to march during the night of the 10th and to take up a convenient position with the object of attacking them early on the 11th, which he accordingly did.

That during said 11th, at the hour indicated in his foregoing testimony, both parties fired several volleys; but that it is an exaggeration that he had surprised the enemy with a "shower of bullets," as reported by Lieutenant Maus.

That he repeats that the numbers of troops under his command was 128 men, who were not uniformed because they were volunteers gathered at a moment's notice.

That Captain Crawford did not exhibit any handkerchief to request an interview, as stated in above-mentioned report; but that it is true that a young American, wounded in the arm, came forth in the midst of the flying bullets, and requested that the firing be stopped, saying that they were American soldiers, friends of Mexico; and that when this took place the Indians under the command of the Americans were already precipitately fleeing, having learned that Mauricio Corredor and he (affiant) were of the attacking force, because they were much feared by the Indians, as the Apaches knew them well, having been constantly at war with them.

That it was well known that years ago the dreaded Victorio was killed by him.

That it is a falsehood, as stated in the report, that deponent's forces knew they were attacking American soldiers. That this is not true; that absolutely nobody could have known it, because by his (Maus') side were 250 or more Indians who carried no flags and wore no uniform, and who, after the cessation of the firing, did not produce any documents proving them to be members of the Regular Army or militia.

That, nevertheless, affiant expressed his regret at the killing of Crawford, while the other party did so at the killing of Mauricio Corredor and his comrades; whereupon they exchanged some papers drawn up in lead-pencil.

That the Mexicans did not request rations of the Americans, although they did demand animals, because they needed them for the transporting of their wounded, and because they had been stolen of residents of the country.

That the Americans delivered aforesaid animals upon receipts being given them.

That affiant's force suffered the greater loss, because they made the attack with greatest intrepidity, while the enemy was sheltered among the rocks.

That another omission or inexactness in said report is that no mention is made of the fact that the subordinates of Crawford lost their presence of mind, with the exception of the young man wounded in the arm, Mr. Horn, who in disregard of the danger came forth from between the rocks to request a cessation of hostilities.

That affiant ordered camp to be broken, and made his report of the occurrences to the State government; that it is also inexact that his force had an intention to continue that attack upon the Americans, because if that had been the case, the Americans were at the end of the combat in such a disadvantageous condition that it would have been easy to destroy them entirely, especially the Indians who were the majority, and who discontinued their flight when their officers reassured them by crying out that they had nothing to fear.

After Santana Perez, the court examined Pedro Rascon, who confirmed the declarations of the former affiant and added: That there were many of the hostile or wild Indians, which was proven by their having among them a Mexican named Concepcion as prisoner.

The depositions of Eulalio Fierro and Jose Antonio Varela, also eye-witnesses, were of the same tenor as that of Santana Perez.

The foregoing are extracts from the proceedings of the investigation held by the District Court of Chihuahua. Copy of the proceedings I forward herewith as Appendix No. 1, leaving out, however, two newspapers in which was published the first report of Lieutenant Maus; these are the "St. Louis Globe-Democrat" of February 6, and "El Fronterizo" of Tucson of the same date.

If you will examine the Proceedings you will find the itinerary of the route followed by the Chihuahua expedition before and after the unfortunate encounter of the 11th; said itinerary agrees perfectly with the testimony of the witnesses, and it proves that, whether the firing of both parties was simultaneous or one party fired before the other, it is evident that the Mexican force had reasonable grounds to believe that it was in pursuit of hostile Indians, enemies of all civilization, and violators of life and property, and that it could not then imagine that, contrary to the spirit of the terms of the contract, two or three hundred armed Indians in the guise of American soldiers would cross our frontier, which Indians did not in truth look like a regular Federal force of the United States.

I also transmit, marked No. 2, copy of proceedings of an investigation on the same subject ordered by the Asst. Adjt. Gen. Francisco T. Boza, by direction of the general commanding the second military zone. Said investigation was held February 24th last before the justice of the peace of Guerrero, State of Chihuahua.

The following-named twenty-nine persons were eye-witnesses: Ramon Chavarria, Jose Ma. Romero, Herculano Cos, Jesus Campos, Francisco Araiza, Apolinar Zapien, Fabian Martinez, Trinidad Calderon, Laureano Corredor, Roque Ramos, Juan Enriquez, Anastasio de la Cruz, Marcelino Ramos, Agapita Romero, Juan J. Ramos, Ignacio de la Cruz, Martin de la Cruz, Enrique Techone, Termin Chavez, Esteban Vidal, Jesus Leonardo, Jesus Ramos, Francisco Tolis, Valentin Gonzalez, Ramon Gonzalez, Alejandro Ramos, Reyes de la Cruz, Hilario de la Cruz, and Manuel de la Cruz.

They testified to the following:

(1) That they went, on the 11th of January last, at a point called Teopar, to attack some Apache Indians that were in ambush between some rocks.

(2) That Captain Crawford (whose name they heard there for the first time) did not request an interview; and that he was not wounded after the order had been given to cease firing, because when it was noticed that some Americans were with the Indians, by their making themselves known, the said Captain Crawford had already ceased to exist.

(3) That Crawford received a wound above the forehead, from right to left.

(4) That during the fight not one of the Americans, or of the wild or tame Indians, wore a uniform by which it might have been known that they belonged to the United States Army; the former wore civilian dress, and the latter generally wore only breech-clouts and moccasins, with bare heads and hair so long that it covered their shoulders.

(5) That the Mexican commanders did not order the attack; that they only replied to the firing from an ambuscade which they had not noticed; that they could not well imagine them to be civilized troops when all the appearances were to the contrary.

(6) That they did not hear any of the Americans say that they had in their power some hostile Indians as prisoners, holding them captives, together with the articles stolen by said Indians.

(7) That they were all eye-witnesses to said occurrence, because they formed part of the expeditionary column and took part in the encounter at Teopar.

It should be noticed that witness Zapien added that the Apaches were so well hidden that only from time to time could be seen parts of their heads, and the Indians were favored by the broken nature of the ground, having gulleys and parapets for hiding themselves.

Laureano Corredor added that the first volley of the Apaches caused the death of his brother (Mauricio), the commandant; which fact is also stated by Roque Ramos, Anastasio de la Cruz, Marcelino Ramos, and Ramon Gonzalez.

Roque Ramos explained that the parley took place about an hour and a half after the fight commenced, at which time some of the Apaches were abandoning their positions, jumping in their moccasins into the river; and not till then were seen some white rags or handkerchiefs flying at places occupied by the Indians, as signals of peace, wherefore firing ceased, and some Americans, who had not before shown themselves, came forth from between the rocks, with whom the commanding officer, Santana Perez, held a conference.

Before proceeding further, I must call your attention to a point of great importance.

The commander, Santana Perez, opportunely recalls the fact that it was Mauricio Corredor, a man greatly feared by the Apaches, who killed the terrible Indian Victorio, which latter did so much damage to the lives and property of citizens of the United States and Mexico. I have before me the supplement published by the official journal of Chihuahua, under date of October 20, 1880, wherein is printed the report of the colonel commanding the expeditionary column sent against the savages, Joaquin Terrazas, on the hotly-contested battle of the Cerros de los Castillos (Castle Mountains), during which fight Victorio perished. Said document closes with the following words:

"The sons of the State fought with audacious gallantry, but the following, on account of their heroic conduct, are worthy of special mention: The Jefe Politico of Galeano and



the junior chief Juan Mata Ortiz, Rodrigo Garcia, captain of public security, and Mauricio Corredor, captain of the Arisiachic forces."

The Government and press of the United States were much pleased with the results obtained by the Mexican forces in exterminating the cruel Victorio. Who could then have foreseen that years after, through an accidental and unforeseen circumstance, which in all respects is lamentable, the heroic Mauricio Corredor would be killed by a force of Indians under the command of American officers? While Mexico and this Government deplore the loss of Captain Crawford, the Government and people of the United States must certainly deplore the death of Corredor.

I also transmit, for official use, and marked Appendix No. 3, the proceedings of an investigation ordered by the supreme court of Chihuahua, relating to this same business.

In that document will be found the testimony of the following circumstantial witnesses: Silviano Gonzalez, Francisco J. Amaya, Jose de la Luz Armenta, and Gabriel Casavantes; and of the eye-witnesses: Roque Ramos, Esteban Vidal, Felipe Ochoa, Ramon Chavarria, Herculano Coz, Agapito Ramos, Francisco Araiza, Apolinar Zapien, Jose Maria Romero, Jesus Campos, and Vicente Gandara.

Laying aside for the sake of brevity the testimony of the circumstantial witnesses (although they are all proper persons, and especially worthy of credit, Jose de la Luz Armenta, captain of volunteers, who conducted the Mexican wounded from Guerrero to Degollado), I shall confine myself to calling your attention, and that of your Government, to some points in the affidavits of the eye-witnesses who took part in the campaign.

Roque Ramos declared that he was almost certain that the Apaches with whom they fought were the same that a short time before attacked the mining settlement of Dolores, killing several persons and stealing at the same time the greater portion of the stock at the place; that this is easily believed because Commandant Santana recaptured on the battle-field some of the animals stolen at above-mentioned mining town, and they were returned to their owners; that, furthermore, some of the volunteer campaigners from Temosachic recognized several animals, and when they were claimed the lieutenant in command promised to return them; but during the night they were killed, and it was afterwards noticed that the part of the skin showing the brands had been removed from nearly all the carcasses.

Esteban Vidal said that he believes that the Apaches with whom they fought had committed depredations upon national (Mexican) territory; he was led to believe this because in their possession were seen some animals which were recognized as some that a short time before had been stolen from the mining town Dolores when it was attacked by the savages; that said animals were demanded of Lieutenant Maus, who indicated that he would give them up on the following day; but that in place of this being done, said animals were found killed, with skins removed so that neither color or brand could be recognized.

Felipe Ochoa stated that in the possession of the Apaches at Teopar were found some of the stock that had been stolen shortly before during the attack upon the mining settlement of Dolores, when several inhabitants of that place were killed; that this was so well ascertained that the campaign chief (Santana Perez) took from them, after conclusion of peace, three donkeys, which he returned to the owners in said mining town.

Ramon Chavarria was more explicit, and related that those Apaches were doubtless the same who attacked the mining settlement Dolores, because in their possession were found some live stock stolen at aforesaid place; and of these Chief Santana recovered three donkeys, which he delivered to Melquiades Vargas; that Santana recognized and demanded several other animals, but, instead of their being surrendered, they were killed during the night. He also cited among other cases that one of the volunteer campaigners from Temosachic, whose name is Petronelo, recognized a mare as his property, and demanded its return of afore-mentioned lieutenant, but that on the following day the mare was found killed; all of which acts lead to the belief that these were the same Apaches who had caused so much damage in the State of Chihuahua.

The positive assertion that the Apaches at Teopar had in their possession stock stolen from the mining town Dolores, and that the animals were recognized by several persons, is supported by the statements of the other eye-witnesses: Herculano Coz, Agapito Ramos, Francisco Araiza, Apolinar Zapien, Jose Maria Romero, Jesus Campos, and Vicente Gandara.

In Appendix No. 4 you will find the proceedings of the judicial investigation as to the occurrences at Teopar, held at the request of Pedro Artalejo, colonel of cavalry, detailed for this purpose by the general commanding the second military zone, by direction of the Secretary of War and Navy.

From these proceedings it appears that some witnesses state that they did not know that Lieutenant Maus was held as prisoner by the Mexican soldiers; that others openly acknowledged that he was detained less than half an hour, but that he was treated with great consideration; and that the motives for such detention were two: First, because said



Maus was not in uniform, nor did he show any distinguishing insignia to indicate that he was an officer of the United States Army, nor did he produce any document to prove his official character, although the Mexican force lost three days at Nacori, waiting for the lieutenant to make search for and present such document, because he stated that his papers were with his pack train, some miles distant; second, that on the preceding day Lieutenant Maus had promised to return to the Mexicans the mules stolen by the Apaches at the mining town of Dolores; that he failed to do so, and said mules were found killed, the brands having been cut out; that therefore the Mexican force believed itself justified in exacting other mules in place of those that he had failed to surrender for the transportation of their wounded; that therefore it was necessary to detain Lieutenant Maus until he should fulfill said promise, he having failed to do so.

Herein, Mr. Chargé d'Affaires, it seems that the action taken by the Mexican volunteers was fully justifiable, or at least very excusable, because it was not enough for said lieutenant to say that he was an officer; he should have proven it, especially when his being in company with a great number of savage Indians and other circumstances made him appear to the armed residents of Chihuahua as an enemy.

It should be observed that Lieutenant Maus in his second report, dated February 23, states: "I am ready to concede that the first attack was made because they mistook our identity, because it was very early and cloudy. I wish to be strictly just toward these people, but I cannot possibly believe they were under the same mistake during the second attack, during which Captain Crawford received a wound which deprived him of his existence."

From all the testimony taken by the Mexican Government it is apparent that there was but one attack; that so soon as the Chihuahua forces learned that Americans were on the other side, even while they doubted their official character, they ceased firing; that thereafter they did not fire a single shot; and that for this reason Captain Crawford was not killed during a second firing by the Mexicans, because there was but one.

In regard to the demand by the Chihuahua volunteers for the loan of good animals for the transport of their wounded, Lieutenant Maus declares them to have been in the right, by stating: "Then I ordered Concepcion to go to the camp for the horses. The interpreter returned with them. The Mexicans refused to accept them, saying that they were unserviceable. The scouts had picked out the worst ones, and the horses were really not serviceable. I sent for others, but the scouts opposed themselves, because they considered these animals their own; and I judged that I had best not insist on the order."

Does not this seem like connivance on the part of Lieutenant Maus with the Apache Indians—his permitting them to retain in their possession property stolen on Mexican territory? Or, if we do not wish to call such conduct a connivance, is it not at least an undue toleration, or perhaps an impossibility to enforce obedience from his troops?

It is also noteworthy that Lieutenant Maus contradicts himself by saying several times that the Mexican force was intimidated and was unable to hold out against his command, while at the same time he nevertheless represents the Mexican force as oppressive and exacting and accuses it of offenses and arbitrary conduct, which can never be committed by those who through fear are in the inferior situation—by the weak against the strong.

I have in my possession the proceedings of another extensive and detailed investigation ordered by the Secretary of War, which proves serious crimes to have been committed and damage caused, and above all, numerous depredations to have been committed in the district of Moctezuma (State of Sonora) by a band of Indians led by Captain Crawford. By the official reports embodied in those proceedings it appears proven that said Indians committed all sorts of outrages and assaults; killing cattle without the owner's permission and without paying for them; interfering with citizens and authorities, as they did at Guaverache; murdering, as they did citizens Francisco Lavandera and Tomas Moreno; and lastly, stealing and burning, as they did the sugar-cane and the fences of the fields of five or six Mexicans whose names are stated in said reports.

The Indians under Captain Crawford having committed such depredations, furnished another reason why any one might have mistaken Crawford's force for a band of hostile Apaches; and in attacking them at the very place where Nana had fixed his rancharia, where Chief Geronimo also was and whence he fled—a place well known as a point of assembly for Indians upon the war-path—Santana Perez did certainly not commit an imprudent or punishable act.

From all these proceedings it is plain that the killing of Captain Crawford was the result of a mishap, of a mistake, just as Lieutenant Maus acknowledged it to be to Casimiro Grajeda, commissary of police at Nacori, and to Emilio Kosterlitzky; which proceedings for the present I retain. I shall have the honor to transmit them to you within a few days, and request that you will consider them as Appendix No. 5 hereto; they are not forwarded to you at this time, because it is deemed proper not to delay longer

the sending of these documents, and the original of that lengthy document must be filed in the office of the Secretary of State.

As the persons who suffered the damages presented documentary complaints of the depredations committed by Captain Crawford's Indians, before the encounter of Teopar took place, the Mexican Government is constrained to request that an indemnity be paid for such damages. At present I only mention this that it may be seen how important it is to comply (in letter and spirit) with the stipulated conditions for the passage of troops from one side to the other of the Rio Bravo (Rio Grande). Some time before the occurrence of the unfortunate conflict which resulted in the killing of Captain Crawford and of four Mexicans I issued instructions to Mr. Romero that he should, at Washington, call attention to the unfitness and illegality of allowing the passage to Mexican territory, in pursuit of Indians, of other Indians equally devoid of civilization and therefore unable to understand military discipline. He was requested to call attention to the first article of the treaty in force between the two nations, which article permits passage only to regular Federal troops. Mr. Romero reported that he did as ordered, and that he received a reply stating that the scouts were regular soldiers of the United States, because they were paid from appropriations for the payment of the Army.

Such an answer may do well enough legally within the United States, but is not satisfactory internationally. In the latter sense the term regular Federal troops is construed to convey the meaning generally applied to those words, *i. e.*, troops of the standing (permanent) Army, and not troops temporarily organized for a certain and temporary service. Above all, to fix the meaning which both Governments wished to express, we must heed the spirit which guided them in making this treaty, which was no other than to pursue the savages engaged in a continuous war against civilization, without, however, abuses being committed against the inhabitants of the foreign territory entered by the troops during such pursuit.

For this object, and this only, were intended all the judicious precautions adopted by the Mexican senate and accepted by your Government. Among them is one which stipulates that the passage of the frontier, for above-expressed purpose, shall be allowed only to such troops as offered the greatest guarantee in points of discipline, morality, and good order; that is to say, troops of the Regular Army. Had it been suspected that the self-same savages who, after escaping from their reservations, or in any other manner, came to Mexico there to commit their crimes, would be considered as soldiers of the Regular Army of the United States, without their even changing their habits or dress—they would clearly have been in most positive terms excluded from such permission, which does exclude even the State militia or United States Volunteers solely on account of their being less disciplined. It is, therefore, clearly evident, as it could not have been in the mind of the contracting parties—at least not of one of them—to consider that such Indians constitute "troops in high discipline," that there is no treaty allowing them to pass the frontier armed, in pursuit of other Indians.

It seems useless to further continue these considerations, because they are sufficiently evident; or that I should accompany them with others regarding the harm resulting to Mexico from the fact that Indian criminals, fugitives from its territory, find shelter on American territory, where treaties are made with them, which results in their breaking their promises and returning to this side of the river, here to repeat their atrocities, as has just happened in the case of Geronimo. Against this and any other evils which result to us from the voluntary acts of the American authorities, executed beyond our boundary line, we have perhaps, as a general rule, no right to complain; but it is otherwise when it concerns what appertains to a treaty regarding the passage of troops across our frontier. The interpretation of that compact concerns the Government of Mexico as much as it does that of the United States, and we cannot consent that an application be made of it which is not warranted, and which must continue to have pernicious consequences.

In concluding this note, permit me to repeat, once more, that it is plainly proven, at least in the judgment of this Government and in view of the accompanying proceedings, that the fight at Teopar and the killing of Captain Crawford during the same were acts for which the Mexican force can not be blamed; and that the original cause of the mistake, of the errors committed on that lamentable occasion, as well as of other displeasing evils upon the territory of Mexico, has been, that in pursuit of hostile Indians our territory was entered by other Indians of the same appearance and habits, who are equally vicious, in contravention—as I have endeavored to show—of the compact binding upon the two nations, regarding the passage of troops across the frontier in the pursuit of the savages.

Be pleased to accept, &c.

IGNO MARISCAL.

## APPENDIX No. 1.

[Translation.]

REPUBLIC OF MEXICO,  
FREE AND SOVEREIGN STATE OF CHIHUAHUA,  
*District Court, Year of 1886, Number 13.*

Investigation held at the instance of the State government, concerning the occurrences which took place on January 11, between the volunteer state forces and other forces composed of hostile Indians under the leadership of American commanders.

Public prosecutor, District-Attorney Jesus Maria Tarizon; judge, Jose Maria Revilla; clerk of court (secretary), Antonio V. Guiros.

[Seal of State, No. 2488; seal of district court.]

This government, desiring to clear up the facts of the armed collision that took place between an American force of Indian auxiliaries and a volunteer force from Guerrero, under the command of Captain Crawford and Commandant Santana Perez, respectively, which occurred on January 11 last, at a point called Teopar, in the Sierra de Bavis, I shall thank you to institute a formal investigation into the affair, taking the evidence of the Commander Santana Perez, who is now in this city at the disposal of the court, on the following points, and on such others that, in the judgment of the court, may serve to bring forth the true facts:

(1) How is it that the encounter took place at Teopar between the American force of Indian auxiliaries and the volunteer force organized in the cantons of Guerrero and Degollado in pursuit of savages?

(2) Which of the parties delivered the first fire?

(3) Who commanded the American force?

(4) What was the number of men in that force?

(5) Did it have any military distinctive insignia?

(6) From what reservation in the United States did it come?

(7) What class of Indians were the auxiliaries of the American force?

(8) Was there, in the camp of the American force, any live-stock that had been stolen by the Indians upon the national territory?

(9) In possession of which force did such animals remain after the action?

(10) What depredations had the Indians committed before that time?

(11) What Indians committed them?

To aid in this, as they may prove useful, I inclose the original papers received by Santana Perez, of the American commander at Teopar, and also a copy of the proceedings of the investigation of said occurrence, sent to this government by the political chief of the canton of Guerrero, under date of the 2d inst., and I beg that so soon as you have concluded the investigation you will forward to me duplicates of the evidence.

Liberty and constitution.

Chihuahua, February 11, 1886.

FELIX FRANCISCO MACEYRA.  
N. GAMERO, *First Official.*

To the DISTRICT JUDGE IN THIS CAPITAL, *present.*

[Seal: Republic Mexico, government of Chihuahua, office of secretary.—Seal: Office of jefe politico, district Guerrero.]

STATE OF CHIHUAHUA,  
*Governor of Chihuahua.*

## BRIEF.

The commanding officer and volunteer soldiers who from this canton marched to Teopar under the orders of the late Commander Mauricio Corredor, report and give a detailed account, confirming the following facts: (1) The enemy had in his possession live-stock that had been stolen by the Indians while depredating at Dolores some months ago, the Mexican commander bringing with him two donkeys, which he delivered to the owners in said mining town, the commander and his troops knowing that the Indians killed the other above-mentioned stolen stock near the place where the agreement (of peace) was made; (2) The enemy's force, to the number of about 300, consisted almost entirely of Indians, only some twenty foreigners or Americans being with them, the latter not showing themselves in uniform during the fight; (3) The fight and agreement took place on Mexican territory, as Teopar is a place situated between here and Nacori, in



Sonora; (4) The American enemies, in command of the Indians, did not indicate to what organization of the Army they belonged; (5) All the Indians engaged in the fight at Teopar were Apaches; it is not known from what reservation they came; (6) The American commander who made the request for an agreement, after the killing (during the skirmish) of his captain (whose name is not known), was called a lieutenant, who stated his name as *Morius P. Moris*, and his interpreter was Concepcion Aguirre; (7) The Mexican column was seen by the American and Indian enemies on the day before the battle, because they made preparations to repel it, instead of sending messengers, whereby the conflict might have been avoided; (8) Near the camp where the enemy was located signal fires were made to give notice of the Mexican column, by which signals the Apaches usually notify their comrades of the near approach of forces pursuing them; (9) The firing was commenced in broad daylight, the band of the gallant Mauricio Corredor attacking unsheltered the enemy's position up to the muzzles of their rifles; (10) When the Indians had been dislodged from behind their parapets they commenced a precipitate flight, and the Americans who could not do the same then commenced to shake white handkerchiefs above their parapets, which resulted in the Mexican commander giving orders to cease firing; (11) An agreement was concluded, not because the hostile force produced any legal authority (for its presence there), but because the Mexican column lacked rations and ammunition to remain in the desert.

Liberty and constitution.

Guerrero, February 2, 1886.

GIL RICO.

A true copy.

Chihuahua, February 11, 1886.

N. GAMERO,  
*First Official.*

[Translation from the *Globe-Democrat* of Saint Louis, Mo., dated February 6, 1886.]

*As hostages.*

CHIEF NANA AND FOUR SQUAWS PRISONERS OF LIEUTENANT MAUS—MEXICAN VERSION—ABOUT THE FATE OF CAPTAIN CRAWFORD.

TUCSON, ARIZ., February 5, 1886.

A message from Guadalupe Cañon to the Star says: "A courier has just arrived, and relates that Lieutenant Maus has arrived at Lang's ranch with Chief Nana, an Indian boy, and four squaws, as hostages for the surrender of the Indians on the war-path. Lieutenant Maus will await the surrender at Lang's ranch."

THE DEATH OF CRAWFORD.

TOMBSTONE, ARIZ., February 5, 1886.

The causes which public opinion ascribed for the killing of Captain Crawford have once more been confirmed by the arrival here, from Sonora, of Mr. A. J. Huncke, a trustworthy person. That gentleman states that during the past month fourteen Indians, spies of Crawford, while drunk, attacked a Mexican living near Frontera; after which they jumped the town, firing shots in the streets and obliging the inhabitants to close their houses to defend themselves. The Indian scouts were masters of the town for several hours. The Mexicans recovered and organized for an attack; but when about to make it, Captain Crawford arrived, and only by his presence did he save his subordinates.

THE INDIAN SCOUTS ARE RESPONSIBLE FOR THE KILLING OF CRAWFORD.

WASHINGTON, D. C., February 5, 1886.

Mr. Romero, the Mexican minister at Washington, has received of the government of the State of Chihuahua an official communication regarding the late unfortunate encounter between the troops of Mexico and those of the United States commanded by Captain Crawford, at Davis Mountain, in Chihuahua, on the 11th ultimo. In this official note it is stated that the Mexican force, under the command of Mauricio Corredor, arrived on that day at a place called Teopar, in the Sierra de Davis, where it was supposed that the Apache Indians, under the lead of Geronimo, would be found. The Mexican troops fired upon the American force, in the belief that they had to do with the enemy.

During the attack, which was led by Chief Mauricio Corredor, perished Captain Juan de la Cruz and the soldiers Mariano Madrid and Luz Estrada, and four other men were wounded. So soon as the Mexican forces understood their mistake, and that they were fighting American soldiers, they ceased firing, and manifested to the latter their regrets at the losses occasioned on both sides. The note of which we are speaking gives as an excuse for such a mistake the difficulty of distinguishing the hostiles and the Indian scouts, and asserts that while the latter are in camp and within sight of their commanders they behave very well; but this is not the case when they go out of camp under the pretense of hunting, or searching for rebellious Indians, or for some other purpose, because then they commit all sorts of depredations against the peaceable inhabitants of the frontier, and can really not be distinguished from Indians on the war-path. It is reported from Mexico that the Indian auxiliaries of the American troops on September 17, last year, killed and wounded a considerable number of cattle and horses belonging to a Mexican, and that on the 23d, they being encamped at a place about 1 mile from Guasabas, Sonora, seven of them went to the town and committed grievous outrages, so that the jefe politico saw himself compelled to resort to armed force to bring them to order, during which affair one of the guides was wounded. The same auxiliaries afterward killed eleven head of cattle and wounded others near Granados, and killed two muleteers that were driving a bunch of mules laden with goods, which the Indians stole. It is also said that three Mexicans were assaulted by some Indian scouts on January 9, on the road leading from Nacosari to Cumpos; the men were enabled to escape, but their donkeys, the loads, and trappings remained in the hands of the assailants. The note to Mr. Romero states, furthermore, that the "Constitution," the official newspaper of the State of Sonora, contains a detailed report of the depredations committed by the Indian auxiliaries, in consequence of which a petition has been forwarded to the General Government, requesting that incursion of the Indian scouts upon Mexican territory be not allowed.

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NOT AT ALL SATISFACTORY.

[Special dispatch to the *Globe-Democrat*.]

WASHINGTON, D. C., *February 5.*

The account given by a Mexican official regarding the affair of Captain Crawford, is considered by employes of the War Department as somewhat confusing and not at all satisfactory, although it is firmly believed that the attack was not made in the knowledge that the attacked party was a portion of the American troops. The charge made by the Mexican official that said troops had in their possession live-stock that had recently been stolen in the district, is explained by the fact that the hostile Indians had just fled, leaving behind them their animals and camp equipage in the hands of Captain Crawford, very shortly before the attack of the Mexicans. It was impossible for Captain Crawford to make himself immediately known, because he did not know the nature of the attack, and on account of the disorder and demoralization that followed it.

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CAVALRY ON THE FRONTIER.

WASHINGTON, D. C., *February 5.*

The Committee on Military Affairs, by a majority of 6 votes against 1, agreed to-day to form a project which will tend to protect the settlers of Arizona and New Mexico. It treats of the formation of a regiment of volunteers, to be composed of and to be commanded by actual residents in said Territory. Each officer and soldier will be furnished with two Mexican ponies, and should these not be sufficient for a vigorous pursuit of the raiding Indians, the quartermasters shall be authorized to take horses from any herd, without any delay, simply giving to the owners documents stating that their animals were impressed. The regiment is to be provided with pack animals for the transportation of subsistence stores, besides with a sufficient number of wagons.

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UNEASY FEELING AMONG THE NORTHEASTERN TRIBES INCREASING.

SAINT PAUL, *February 5.*

A telegram from Ada Mina states: The Indians of Red Lake Reservation present an alarming aspect. It has been learned that for some time they have been gathering arms, ammunition, and horses in the surrounding country. It is feared that they have been excited by emissaries from the northwest.

## RURAL COURT OF THE MINING DISTRICT OF DOLORES, MINING TOWN OF DOLORES.

I, Rafael Armenta, rural judge of this place, certify: That Melquiades Vargas has completely proven his ownership of two donkeys, one gray and one grayish, which Commander Santana Perez during an armed conflict with the Indians took away from them. These donkeys had been stolen from here on the 27th of October last, by the savages that invaded this mining district. The proofs of Mr. Vargas consisted in the testimony of witnesses and in comparing the brands of his other donkeys, which he exhibited at this office, and through the courtesy of above-named commandant they were placed in the possession of Mr. Vargas. At the request of the interested party, I therefore make record hereof, at the mining town of Dolores, this 19th day of January, 1886.

RAFAEL ARMENTA.

This, the 11th day of February, 1886, I, Lieut. M. P. Maus, United States Army, state: Unexpectedly we were encountered at the river Haros Ca. by the force of Mexicans in pursuit of hostile Indians. We, being in camp, there was some trouble between us through not having been able to see each other in time.

CAPTAIN SANTANA PEREZ.

SERGEANT PEDRO PERESCANO.

MARIUS P. MAUS,

*Lieutenant United States Army.*

## MEMORANDA.

JANUARY 12, 1886.

SIR: To-night I will send for my papers. When you see them you will be satisfied. If you want anything else you will cause mischief if you do not send to Colonel Garcia for some Mexican soldiers. When I reach Nacori I shall give you provisions if you want them, but it is necessary for me to remain here in command of my men. The mules which I send you are sent only as a favor of me to you, and if it is all right, I shall go ahead to Nacori, or you might go on ahead. If you do more, you may cause much mischief. You must return them all to me. Be good enough to write me if you want anything more. My soldiers are friends to you and your men, and I will give my word that they shall always remain so.

All the mules, saddles, and blankets, and other articles belong to the United States Government. It is necessary to return them, and I want a receipt of you for all of them.

Your obedient servant,

MARIUS P. MAUS,

*Lieutenant United States Army.*

SIR: You would do well if you will have the goodness to put your name to this receipt. I am also going. It is best that we do not go at the same time, and I am glad of it. Good-bye.

Your obedient servant,

MARIUS P. MAUS, *Lieutenant.*

[Seal of the district court, State of Chihuahua.]

## DECREE.

CHIHUAHUA, February 12, 1886.

Upon summons of the district attorney (public prosecutor), the investigation referred to by the State government under date of yesterday will take place. Thus decreed and signed by Jose Maria Revilla, district judge of the State, before me, the Secretary. So certified.

J. M. REVILLA.

ANTONIO V. GUIROS, *Secretary.*

On the same date the district-attorney was notified and acknowledged himself as duly summoned.

JARIZON.

On the same date was issued a subpoena to Santana Perez to appear before the court. So certified.

GUIROS.



## DEPOSITION OF SANTANA PEREZ.

On the 13th instant appeared before the judge—the district-attorney (public prosecutor) being present—Mr. Santana Perez, who being duly sworn stated that his name is as above-written; he is a native of Tejolocatchie, Chihuahua; forty-five years of age; married; farmer; residing at Yepomel. Being examined as to the first question of aforesated interrogatory, he answered that he was commissioned by the State government, as a volunteer, to raise a small force, also of volunteers, to engage in the pursuit of hostile Indians that were invading the State; that in the discharge of this duty he raised a company of one hundred and twenty-eight men: that though the Government authorized and ordered the raising of one hundred and fifty men, the number was reduced to one hundred and twenty-eight, as stated, because a guard had to be sent back with the animals which they carried with them, as they could not go with the troops on account of the broken roads that could be traversed only on foot with great difficulty; that in said company his subaltern officers were Mauricio Corredor and Juan de la Cruz; that the company having been definitely organized, they started out on December 26 last, in the direction of the Sierra in pursuit of the Apaches, of whose presence thereabouts they had received notice; that from above date they marched, taking all precautions suggested by experience, expecting momentarily to encounter the enemy: that on January 9, at a point called Arroyo Seco, they struck an Indian trail, which they followed as far as Arroyo del Carrizal, where they encamped for the night; that on the following day they followed the same trail, until they arrived at Divisadero Mountain, whence they were able to see the rancheria or camp of the Indians; that they waited for nightfall with the object of attacking them on the following morning; that after sunset they took up the march, and next day at about 7 a. m., having taken up a convenient position, they opened fire upon the rancheria or camp of the Indians, after becoming aware that the Indians had noticed them and were calling to them with yells and clamors; that deponent and his companions were convinced that these were wild or hostile Indians, because they could well see them, being very near to each other, and because they heard them plainly call out, in their language, "Come on, 'Nacayé,' here is your horse," and they therefore kept up firing for an hour. A little more or less; that deponent is not certain whether his companions fired before the enemy did so, because the volleys were simultaneous; but that he has no doubt that the Indians discharged their rifles first at him, wherefore he saw himself compelled to answer in the same manner; that during the firing, Mauricio Corredor was killed by receiving a bullet in the breast, the same traversing his body diagonally from right to left; there were also killed Juan de la Cruz, who received 13 bullets at very close range, and Luz Estrada and Martiniano Madrid; that thereupon a beardless American came forth and gave us to understand that his party was on a campaign, *i. e.*, that they were not hostile Indians, but in pursuit of Indians; that deponent then ordered the firing to cease; that meanwhile the Indians had commenced to flee; but afterwards the same Indians returned, being recalled by the same young American and by another lieutenant; that upon cessation of hostilities it was noticed that the young American was wounded in the right arm, and that the Captain of the Indians, also an American, was wounded in the head.

To the second question, he answered: That the Indians fired at him first; and he repeats that he does not know if this was also the case on the side whence Mauricio Corredor advanced, the latter having died without being able to speak.

Answer to third question: That at the place of the action he was not able to learn the name of the American commander.

Answer to fourth question: There were 7 Americans, and under their orders about two hundred and fifty or more Indians; that among them was a Mexican named Concepcion Aguirre, who stated to affiant that he was a captive of the Indians, who had taken him prisoner when he was very small.

Answer to fifth question: That the Americans had with them no military insignia; the young man who was wounded in the arm, of whom I have spoken, came forth in an overshirt, and the lieutenant wore a black sack coat without braid or any other distinctive mark.

Answer to sixth question: That he does not know.

Answer to seventh question: That the Apaches were of the hostile tribe, because their dress was in no manner different from that of the hostiles—they wore breechclouts, handkerchiefs tied over their heads, long hair, and moccasins, and that the Americans also wore moccasins.

Answer to eighth question: That, as proven, he brought with him three donkeys, one mare, six mules (four with pack saddles and two with riding saddles), and that he has placed them at the disposal of the State government; that he exhibits a certificate and some notes written with lead pencil from the American lieutenant, by which he proves whence he got the animals.

Answer to ninth question: That they (the animals) remained in the possession of the Americans, who refused to surrender them, protesting that they were engaged in a campaign, and that they were given those above mentioned only because they were needed for the transportation of the wounded.

Answer to tenth question: They stole animals at Las Varas, Yepome, and Dolores, and killed the owner of Las Veras, a native of the United States; and at Dolores they killed three persons. Affiant knew of these acts before starting on the campaign through reports made to the State government, and because it was of public notoriety.

Answer to eleventh question: The same Indians whom he attacked, because there are positively no others in the Sierra Madre. He stated that he has nothing further to say, except that the names of those of his command that were wounded are Marcos Gonzales, Herculano Coz, Apolinar Zapien, and Francisco Romero, who are under medical treatment at Guerrereros, and that to the facts can also testify, as eye-witnesses, among others, José Antonio Varela, Pedro Rascon, and Eulalio Fierro. He confirmed his testimony, and it having been read to him he signed the same, together with the judge, the district attorney (public prosecutor), and the undersigned secretary, who hereby so certifies.

J. N. REVILLA.

J. M. TARIZON.

ANTONIO V. GUIROS,

*Secretary.*

SANTANA PEREZ.

#### DECREE.

CHIHUAHUA, *February 15, 1886.*

Let the official communication just received from the State government be annexed hereto; let the testimony of Santana Perez be continued in compliance with the tenor of the afore-mentioned communication and report; and let José Antonio Varela, Pedro Rascon, and Eulalio Fierro be subpoenaed to take their depositions. This was ordered and signed by the district judge in my presence.

I so certify.

REVILLA.

GUIROS,

*Secretary.*

NOTICE.—Thereupon the district attorney was so notified.

TARIZON.

#### CONTINUATION OF THE TESTIMONY OF SANTANA PEREZ.

On the same day, in obedience to subpoena, appeared before the court, Santana Perez, whose previous evidence being before the judge, district attorney (public prosecutor), and undersigned secretary (clerk of court), he was duly sworn; and there was then shown to him a report that appears in the second, third, and fourth columns of the newspaper entitled *El Fronterizo* (The Frontiersman) No. 376, of date of 6th instant; and having seen the same, he stated: That the report, which was read to him, contains many incorrect and false statements; that it is absolutely untrue that Captain Crawford, his subalterns, and his troops, composed of native Apaches, had any encounter on January 10 with other hostile Apaches, as stated in the report; that he knows this because, he repeats, when he struck the trail of that camp, and when he was cautiously in position upon Divisadero Mountain he did not lose sight of them all that day, and he observed not a single movement among them, nor did he hear a single shot; but that on the contrary he took notice how quiet they were, this quietness enabling him to march on during the night of the 10th, and to take up a convenient position for attacking them early on the 11th, which in fact he did; that on said 11th, at the hour mentioned in his former testimony, some volleys were fired by both parties; that it is not true that the enemy was surprised by a shower of bullets; that the number of troops under his command was 128 men, who were not in uniform because they were all volunteers; that Crawford did not exhibit any handkerchief, it being a certain fact that a young American, who was wounded in the arm, came forth in midst of the bullets, asking that the firing be stopped, stating that "they were Americans, soldiers, and friends of Mexico;" but this was when the Indians under their command, knowing they were attacked by Mauricio Corredor and affiant, had already commenced a precipitate flight through their

fear, because they (Corredor and deponent) are only too well known by all the Apaches, having been constantly at war with them; that it was well known that it was Mauricio, who, years before, killed the dreaded Victorio; that it is an untruth that—as stated in the report—the forces under deponent's command knew that they were attacking American soldiers, because it is not true, nor could any one have known it, because with the Americans were 250 or more Indians who had neither flag nor uniform, and who, after the firing had ceased, did not produce any documents to prove them to belong to the regular military force; that, indeed, and notwithstanding this, deponent expressed his regret at the killing of Crawford, as did also the other party at the killing of Mauricio Corredor and his other companions; and that they exchanged some papers written in lead pencil, deponent having turned over those which he received to be annexed to these proceedings; that they did not request rations of the Americans, although they demanded some animals, as much because they needed them for transporting their wounded as because they had been stolen of residents of the country; and that the others delivered those mentioned above, a receipt being given for them; that the losses were greatest in deponent's force, because his men made the attack with great intrepidity, and because the enemy was sheltered behind rocks; that there is another reason to believe that the account of the affair, as given in said report, is inexact, which is, that the Americans lost their presence of mind; excepting the young man who was wounded in the arm, who, in spite of the danger, came forth from between the rocks, requesting that the firing be stopped; that thereupon deponent ordered camp to be broken and report to be made of this affair to the State government, which he accordingly did; that it is also untrue that his force intended to again attack the Americans; because, if such had been the intention, it would have been easy to destroy them entirely, as they were greatly intimidated, and so also were the Indians under their command, the latter stopping in their flight only when their officers reassured them by crying out that they had nothing to fear; that deponent's forces were armed with Remington rifles, caliber .50, and that each volunteer had sixty cartridges, of which they used about half during the fight on January 11; that this is all he has to say, and deponent declared it to be the truth, and signed the testimony.

J. M. REVILLA.

J. M. TARIZON.

SANTANA PEREZ.

ANTONIO V. GUIROS, *Secretary*.

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TESTIMONY OF PEDRO RASCON.

On the 16th day of the same February there appeared before the district judge and attorney (prosecutor), a person who stated his name as Pedro Rascon, that he was of age, married, and resided in Canton Degollado; he was admonished to tell the truth, and he promised to do so, and was thereupon questioned as to the facts which took place on January 11 last, at the place called Teopar, in the Sierra de Bavis, Sonora. In reply he said: That he formed part of the force of State volunteers charged with the pursuit of the Indians under the command of Santana Perez; that they went forth in the latter part of last December with that object; that after having traveled some days through the Sierra Madre in search of the Indians who had committed misdeeds at Yeponessa in the mining district of Dolores, and at Las Varas, they struck the trail of the latter about January 9; that they followed them till the following day, when, having ascended a mountain, they saw the rancharia; that without making any noise or lighting any fires, and even lying down so as not to be seen, they remained in ambush (wait) by order of Mr. Perez until nightfall, when they put themselves on the road toward aforementioned rancharia, marching slowly and with great carefulness, so as not to make any noise or attract attention; that, nevertheless, at daybreak the Indians became aware of the approach of the force to which deponent belonged, and commenced to yell in a prolonged and excited manner, inviting the volunteers to fight, and immediately lighting great signal fires, which in the Indian customs means "the enemy is in our front;" that among the yelling could now and then be distinguished the words, "Come on, *Nacayé*," which is equivalent to a challenge to fight; that the Indians fired a volley upon the volunteers, making it necessary to battle with them; that the firing from both sides continued a little less than an hour; and that while the volunteers were gaining ground, putting the Indians to flight, Mr. Perez gave orders to cease firing, which was done; that deponent saw the few Americans that were among the Indians, and that they wore no uniform; that of the Indians there were a great many, and that they were wild or hostile ones, which is proven by the fact that they had among them as captive a Mexican named Concepcion N——; that the loss of the State forces consisted in having four



men killed and four wounded, owing to the good position occupied by the other side; that he knows that on the other side a captain was killed and one American was wounded; that this is all he knows, it being the truth, and he so affirmed it. He did not affix his signature, being unable to write.

J. M. REVILLA.

J. M. TARIZON.

ANTONIO V. GUIROS, *Secretary.*

#### TESTIMONY OF EULALIO FIERRO.

On the same date presented himself Eulalio Fierro, who being sworn to tell the truth stated that his name is as above written, is a native and resident of Canton Degollado, is of age, married, farmer. Being examined in due form, he testified: That he was invited by Santana Perez to join in a campaign to be undertaken against the Apaches; that with the other companions he started out, after Christmas, and that on the day of starting they went as far as Las Varas, where they remained overnight; that on January 8, having crossed the river Satachic, when near Arroyo Seco, they struck an Apache trail, which they concluded to follow, and did follow it; that on the 9th, without losing the trail, they arrived at Arroyo del Carizal, where they rested; that on the 10th they reached Divisadero Mountain, from which place they could very plainly see the rancharia or camp of the Indians; that at night they left the mountain and marched to within gunshot distance (of the Indians), and on the following morning, in view of the hostilities, or at least hostile attitude of the Indians, and of the shots which they fired at the nationals, they attacked them impetuously for about three-quarters of an hour; that the Indians at first resisted, but after a while commenced flight; having already retreated when their officers called out to them, saying, as deponent believes, that there was nothing more to fear, as the firing had already ceased at the instance of an American who came forth to request that no more firing be done, and said that they were engaged in a campaign; deponent stated that the Indians were not taken by surprise, because they had noticed the nationals long before firing began; that with the Apaches were about twenty Americans, who said they were in the military service of the United States; that this could not be known at first sight, as they wore no uniform or military devices, in place of which they wore moccasins and civilian dress; that the encounter resulted in the killing of four of the nationals and the wounding of four, as also in the killing of an American captain and the wounding of one man; that, camp having been broken, after recovering from the possession of the enemy some animals, the national force marched back as far as Yeponeras, where they disbanded on January 26; that he is cognizant of above statements, because, as he said, he was a member of the national force; that they are true and he so reaffirms. He did not affix his signature, being unable to write; the judge, district attorney, public prosecutor, and secretary placing their signatures below.

So certified.

J. M. REVILLA.

J. M. TARIZON.

ANTONIO V. GUIROS,

*Secretary.*

#### TESTIMONY OF JOSÉ ANTONIO VARELA.

On the 17th of the same February appeared José Antonio Varela, who being duly sworn before the judge to speak the truth, answered to the questions put to him: That his name is as above written, he is a native and resident of Canton Degollado, of age, married, farmer. Being examined in due form he declared: That when the State government learned that the Apaches had committed murders and thefts at Yeponeras, Las Varas, and Dolores, it concluded to raise a force of nationals to pursue them, and as all the cantons in the vicinity of the Sierra Madre are continually exposed to the depredations of the Indians, a force of one hundred and fifty men was soon collected under the command of Santana Perez and Mauricio Corredor; that to effectually pursue the Indians it is necessary to march very cautiously, without lighting fires or making the least noise; wherefore the nationals on a campaign are obliged to subsist only on pinole (parched corn, ground, and generally mixed with some sugar), of which they carry a very small quantity slung over the shoulder; that they started out from Yeponeras on December 26, and until the 8th of January they did not find any trail of the savages, but that when they did strike one they followed it until the 10th, on which day they could see the rancharia from Divisadero Mountain; that they remained at the latter place until night, when they resumed the march with the object of making an attack at daybreak of the following day, the 11th; that the Indians in the rancharia called out to the nationals, invit-

ing them to fight, and yelling to them "to come on for their horses," and thereupon discharging several volleys; that when the order was given to fire upon the Indians, firing was commenced, which lasted a little less than an hour; that the Indians were well sheltered behind the rocks and kept up a rapid fusilade, as a result of which four of the nationals were killed and four others wounded, among the killed being Mauricio Corredor; that thereupon an order was received to cease firing, which was done, deponent having learned afterward that this was done because an American had said that they were also on a campaign; that deponent saw from a distance a few Americans who wore sack-coats and moccasins and had no flags or other military distinctive signs; that they had with them animals stolen in the country, of which they gave several to Mr. Perez to transport his wounded; that affiant has nothing further to say, foregoing statements being true, his knowledge of the facts related being derived from having been an eye-witness to same. This evidence being read to him, he declared it correct. He did not affix his signature, being unable to write. This was signed by the judge, district attorney (public prosecutor), and undersigned secretary. So certified.

J. M. REVILLA.

J. M. TARIZON.

ANTONIO V. GUIROS,

*Secretary.*

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DECREE.

CHIHUAHUA, February 17, 1886.

Referred to the district attorney (public prosecutor).

So ordered and signed by the district judge in my presence. I so certify.

REVILLA.

GUIROS, *Secretary.*

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PUBLIC PETITION.

*The Judge of the District:*

The public prosecutor (district attorney) states that in the foregoing proceedings of the investigation (which the undersigned considers to be in due legal form) instituted at the instance of the governor of the State, to inquire into the circumstances attending the armed conflict which took place on the 11th ultimo between the nationals who were in pursuit of savages, and the hostile Indians commanded by American officers, at a place called Teopar, in the State of Sonora, he has noticed that the witnesses examined state, in general terms, that the savages had, before that occurrence, committed their customary depredations at Las Varas, Yeponeras, and the mining town Dolores, reference being made to the reports received by the Government for the details. Wherefore the undersigned is of the opinion, that the governor should be requested to furnish the respective reports, which must be on file in the office of his secretary, as also the record of the operations of the Commander Santana Perez, from the beginning of his campaign to their return, which record must also be among the archives of the secretary's office: this for the purpose that, the court authenticating those documents, they may be annexed to these proceedings to make them complete; the original afterwards to be transmitted to the governor, for such use thereof as he may deem proper.

Chihuahua, February 19, 1886.

J. M. TARIZON.

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DECREE.

CHIHUAHUA, February 19, 1886.

Opinion of the public prosecutor is concurred in. With the insertion of the pertinent part of the petition, let a communication be addressed to the governor of the State, requesting him to transmit the papers referred to. So decreed and signed by the judge of the district, before me, and so certified by me.

REVILLA.

GUIROS, *Secretary.*

*Notice.*—On the same date the prosecutor was notified of above action, and he affixed his signature.

TARIZON.

*Mem.*—On the same date, above mentioned communication was forwarded to the governor.

So certified.

GUIROS, *Secretary.*

## DECREE.

CHIHUAHUA, February 23, 1886.

Let the documents accompanying the communication of yesterday's date from the supreme government of the State, be annexed hereunto; and in compliance with the petition of the prosecutor let these original proceedings and the preceding judicial notice, be transmitted to the same supreme government.

So ordered and signed by the judge of the district, before me, the secretary.

I so certify.

REVILLA.

GUIROS, *Secretary*.

On the same day the public prosecutor was so informed, and he affixed his signature.  
TARIZON.

On the same date these original proceedings, covering 43 leaves of manuscript, are forwarded to the State government.

So certified.

GUIROS, *Secretary*.

[Seal: Republic of Mexico, Government of the State of Chihuahua, No. 2512.]

I have the honor to enclose herewith No. 377 of the "Fronterizo" (Frontiersman) of Tucson (United States) of February 6, 1886, in which is inserted the official report rendered to the Government of the United States by Lieutenant Marius P. Maus, the second commander of the American force, regarding the encounter which it had at Teopar, in the Sierra de Bavis (Mexico) with the force of nationals under command of its chief, Santana Perez, in pursuit of wild Indians.

As this report contains assertions in conflict with the information heretofore received by this government, I shall thank you to direct your attention to the assertions which said report contains placing in doubt the facts referred to; and to extend as to said assertions the investigation instituted by this government.

Liberty and constitution.

Chihuahua, February 12, 1886.

FELIX FRANCISCO MACEYRA.

N. GAMERO, *First Official*.

*To the judge of the district in this capital, present.*

[Seal: Republic of Mexico, government of the State of Chihuahua, secretary's office, section of justice, No. 1.]

By direction from higher authority, I have the honor to transmit to you, in sixteen leaves of manuscript, the data on file in this office relating to depredations by the savage Indians; which data you requested in your communication No. 101, dated 19th instant, upon the petition of the prosecutor, made during the investigation held by your court concerning the acts that took place on the 11th of last January between national forces of the State and Indian forces under command of American officers.

Liberty and constitution.

Chihuahua, February 22, 1886.

N. GAMERO, *First Official*.

*To the judge of the district in this capital, present.*

[Seal: Republic of Mexico, government of the State of Chihuahua, secretary's office.]

YEPONERA, December 26, 1886.

On this date I began the march of the campaign at the head of 150 men in the direction toward the Sierra Madre, and we arrived at Las Varas; Sunday, 27th, to Tascate; Monday, 28th, lost this day on account of bad weather; Tuesday, 29th, to Chuchupate; Wednesday, 30th, to Embudor; Thursday, 31st, to Bote; Friday, 1st, to La Candelaria, where I ordered the mules and saddle animals to be sent back under a guard of 22 men;



2d, lost this day at above place on account of a storm; 3d, we arrived at the Haciendita; 4th, to Guaynopu; 5th, to Arroyo Hondo; 6th, to Puertecitos; 7th, to the river Satachic; 8th, to Arroyo Seco, where we struck the trail of the Indians; 9th, we are following the trail, and arrive at Arroyo del Carizal; 10th, to Divisadero Mountain, whence was seen the rancharia; 11th, we attack the Indians, encountering there united the tame and the wild Indians and 22 Americans, the firing lasted about an hour and a half, and the battle was lost by them; they commenced to cry out that they were on a campaign; they caused us a loss of 4 killed and 4 wounded; 11th, the day was lost at above place; 12th, this day was also lost through the proposals of treaty made by them; 13th, we began the return march for this place, bringing with us 6 mules (4 with pack apparatus and 2 with saddles), 1 horse, 1 mare, and 3 donkeys; and we arrive on the Nacori road; 14th, to the Epinazo del Diablo (Devil's Backbone); 15th, to the river Haros; 16th, to Arroyo de la Rancharia; 17th, to Arroyo de San Leon; 18th, to the mining town Dolores; we lost the 19th on account of a storm; 20th, also lost; 21st, to the river Tutuaca; 22d, to Calavera; 23d, to Sirupa; 24th, to Chinica; 25th, to Casa Colorada (Red House); 26th, to Yeponera, where the force was disbanded. This is the diary of operations which I have the honor to deliver to you for your information.

Liberty and constitution.

Yeponera, January 28, 1886.

SANTANA PEREZ.

To the political chief, Canton Degollado.

A true copy.

Chihuahua, February 23, 1886.

N. GAMERO, *First Official*.

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[Seal: Magistracy of Casas Grandes, Canton Galeana, No. 134.]

*Copy of a communication of the commissary of police of the mining district of Sabinal, relative to Indian news, and reporting what measures were ordered to be taken by the political chief.*

The rural judge of Corralitos, in a communication dated yesterday and received at 6 a. m. to-day, says as I copy *verbatim*:

“Just now, about 6 p. m. of this day, I have received a communication of the commissary of police of Sabinal, which I copy *verbatim*, viz:

“‘At about half past 6 to-day, this mining district was attacked by about eighteen or twenty Indians, roughly estimated. It is not yet known what mischief they have done; they have gone in the direction of the Alamos del Corral de Piedras. I communicate this to you that you may as quickly as possible assist me with all the men you can. Not being able to send this as quickly as I desired, I also inform you that I fear a misfortune may have happened to some charcoal burners, and I am just now sending twelve men to look for them. Be good enough to dispatch in haste a courier to Casas Grandes.

“‘Liberty and constitution.

“‘Sabinal, October 12, 1885.

“‘AUSTACIO VEGA.’

“The foregoing copy I forward to you that through you it may reach the proper authorities.”

And I have the honor to communicate this to you that you may forward it to the governor of the State, at the same time informing you that the above news was at once brought to the knowledge of the commander-in-chief of the line, and to the commander of the armed force at this place, which latter at once enlisted forty or fifty of the residents mounted and armed, subject to the orders of the commander-in-chief of the line, Col. Joaquin Terrazas, who is to arrive here within an hour or two.

Liberty and constitution.

Casas Grandes, October 14, 1885.

SANTA CRUZ MIRANDA,  
*Second Supervisor.*

To the secretary of the supreme government of the State, Chihuahua.

[Seal: Republic of Mexico, office of the secretary of war and navy, 1st Sec., No. 17085.]

The President of the Republic has learned the contents of your communication of the 17th instant, in which you copy that of the political chief of the Canton Galeana, regarding the attack made by the hostile Indians on the 13th on the mining district of Sabinal, and the measures ordered to be taken in the premises.

Liberty and constitution.

Mexico, October 24, 1885.

Y. REVUELTAS,

P. O. D. S.

*To the governor of the State of Chihuahua.*

[Seal: Magistracy of Casas Grandes, Canton Galeana, No. 130.]

*Report of the occurrences at a place called the Agua de la Yegua (Mare's Water), where the Indians attacked superintendent of Ramos's plantation, killing one of his herders.*

On the 11th instant, at about 1 p. m., there appeared in the office of the political chief one Bernardo Quintanar, who reported that on the morning of that day Mr. Alberto Magreum, the superintendent of the Ramos plantation, belonging to Corralitos, went out with 14 men to plow, and that about 10 a. m. they were attacked by the Indians at a place called the Agua de la Yegua; that at the first volley fired by the Indians Roberto Leyva fell wounded; that they at once took to high ground, whence Don Alberto sends him to ask for aid; that he did not know how many Indians there were; that he could see only 5, but to judge from the heavy firing there must have been quite a number. I sent at once word to the commandant of the armed forces at this place, who immediately sent us a reinforcement of 20 dragoons under an officer, and by this officer were sent at the same time some 22 mounted residents under the orders of Sebastian Garcia, to co-operate with the other force in affording aid and in pursuing the Indians, and a swift messenger was sent to Col. Joaquin Terrazas, commander-in-chief of the line, who was then in the valley of San Buenaventura, to notify him of the occurrence. At noon to-day the party of residents came back, their commander reporting that they joined the other force and Don Alberto, and that they all went to the place of the occurrence, where they took up the corpse of Roberto Leyva; that they searched the vicinity, having followed the trail of the Indians, who went into the Sierra; and they thereupon resolved to return.

Whereof I have the honor to inform you that you may forward the report to the governor of the State.

Liberty and constitution.

Casas Grandes, October 13, 1885.

SANTA CRUZ MIRANDA,

Second Supervisor.

*To the Secretary of the Supreme Government of the State, Chihuahua.*

[Seal: Magistracy of Casas Grandes, Canton Galeana, No. 131.]

*Copy of a communication of the municipal president of Ascension, relating to Indians.*

The municipal president of Janos, in a communication dated on the 9th instant, and received at about 5 p. m. of the 10th, reports to this office: "The (municipal) president of Ascension communicates to this office, in a note of this date, the following: 'Just now, it being about 2 p. m., two American officers presented themselves in this office, and stated to me that they have come in pursuit of a party of Indians, composed of twenty-three or twenty-four, who had broken out from the Chiricahua Mountains, said Indians having murdered some persons there, and that their trail was followed by them as far as to the entrance of the Corral de Piedras, where they had to give up the pursuit, because their horses had given out. The foregoing I have the honor to communicate to you, foreseeing that the Indians may perhaps attack some of the settlements. I beg of you, Mr. President, that you will send this notification without delay to the office of the political chief.' A copy whereof I send to you for your information and action."

The above I have the honor to communicate to you, that you may forward it for the information of the governor of the State, to which I will add, so soon as above report was received here, I communicated its contents to the commander-in-chief of the line, and to the commandant of the armed forces at this place.

Liberty and constitution.

Casas Grandes, October 13, 1886.

SANTA CRUZ MIRANDA,  
Second Supervisor.

*To the secretary of the supreme government of the State, Chihuahua.*

[Seal: Magistracy of Casas Grandes, Canton Galeana, No. 136.]

Transmittal of news given by the commissary of police, Sabinal, Mr. Austacio Vega, in a communication dated on the 17th instant. He states that the party under command of Sixto Vega returned on the 15th, after scouting the country in the direction taken by the Indians who had attacked that mining district and then gone off in the direction of Santa Maria Lake. He also states that he recovered three horses left behind by the Indians, one a bay, one a chestnut, and the other a grayish color, two of which he left in the possession of Sebastian Gonzalez and Julian Terrazas, of whom the Indians had stolen them.

The foregoing I have the honor to communicate to you, that through you it may be forwarded for the information and action of the Governor.

Liberty and constitution.

Casas Grandes, October 21, 1885.

SANTA CRUZ MIRANDA,  
Second Supervisor.

*To the supreme government of the State, Chihuahua.*

[Seal: Magistracy of Casas Grandes, Canton Galeana—No. 135.]

Communicates news of the expedition of Col Joaquin Terrazas against the Indians.

From the Sierra de San Joaquin, near Arroyo Seco, under date of yesterday, Col. Joaquin Terrazas, commander in chief of the line, sends a report to this office, which states: "Capt. Alberto Rodriguez not having made his appearance with his force at the appointed place, it is indispensable, in order to continue the campaign according to the plan decided upon by me, that I should request of you the assistance of fifteen men to serve as an escort for the subsistence stores that will leave that settlement on the evening of Wednesday, the 21st instant. Should the above-named captain arrive at that settlement to-morrow, the 20th, or Wednesday, the 21st, be pleased to tell him that he is to march with his force, escorting the subsistence stores mentioned by me, and in that case I shall not need the fifteen residents; but I shall want Bendito Cabrera to serve as guide. I also recommend that with those who conduct said stores you will send word what has been learned, reliably, about Indians. To judge from the trails thus far encountered by me all along Arroyo Seco, the Indians must now be in the deep ravines that come down from the Sierra Alta de San Joaquin, or about the Ancon del Rucio y Palaganas, in which direction I am following."

The above I have the honor to communicate to you, that through you it may be brought to the knowledge of the governor, stating, in addition, that about 6 p. m. to-day Captain Rodriguez came back to this place, and that he will leave to-morrow, in obedience to the colonel's orders.

Liberty and constitution.

Casas Grandes, October 20, 1885.

SANTA CRUZ MIRANDA,  
Second Supervisor.

*To the secretary of the supreme government of the State, Chihuahua.*

[Telegram.]

Given at Guerrero, October 31, 1885; received at Chihuahua, 10.40 a. m.

*To the Governor of the State:*

Last night I received from the political chief of Degollado, copy of report of rural judge of Dolores. I send this extract: "An attack made by the Indians on the mining



town Dolores, at 11 o'clock on the 27th, when they threatened to besiege the town. Until last night (of said day) three men were killed: Juan Wilson, Ascension Hernandez, Procopio Celeyandia. During the firing Indians occupied part of the huts and several eminences. The people took to shelter, were able to repulse them, but could not take the offensive. In opinion of Dolores residents besieging savages are in great number, but they expect to defend themselves without great danger." Will soon send copy of whole report.

R. GONZALEZ,  
*Political Chief.*

[Seal: Office, Political Chief of Canton Degollado.]

By a swift messenger sent to-day I state to the political chief, district of Guerrero, the following: "From two letters addressed to Mr. Santana Perez, it is known to this office that on the 17th instant the Apaches murdered, near the Cerro de los Borregos (Sheep Mountain) a person named Luis Soto, that there are 15 of the Apaches; and that on the 18th instant they murdered at Las Varas two Americans. I communicate this to you, that you may report these facts, in the most expeditious way to the executive of the State." I send you a copy of the foregoing for the executive itself.

Liberty and constitution.

Temosachic, October 20, 1885.

*To the secretary of the supreme government of the State, Chihuahua.*

[Seal: Office, Political Chief, District of Guerrero, State of Chihuahua, Mexico, No. 109.]

That you may inform the Governor, I have the honor to state that, at about 3 p. m. to-day, this office received a report from the political chief of the Canton Degollado, recounting that he had news, from letters addressed to Mr. Santana Perez, that on the 17th instant, near the mountain called Los Borregos, the hostile Indians killed a person named Luis Soto, and that on the 18th instant they killed, at the place Las Varas, two Americans; adding, that the number of the Indians seems to be fifteen.

Liberty and constitution.

Canton Guerrero, October 23, 1885.

R. GONZALEZ.

*To the secretary of the supreme government of the State, Chihuahua.*

[Seal: Office Political Chief, Canton Degollado.]

This very day this office ordered and carried into effect the departure of twenty-five men under the orders of Commandant Teodoro Ramirez, with the object to aid the inhabitants of the mining town Dolores, which, as I stated in yesterday's report, was attacked by the Apaches; they were also instructed on the way from here to Dolores to make an inspection, that it may be known with some certainty whence the Indians came, in what direction they went, their attitude, number, &c. When above mentioned commandant renders his report to the office, I shall give an account to the Government.

It is a satisfaction to me to communicate this to you for the information of the State executive.

Liberty and constitution.

Temosachic, October 30, 1885.

SERGIO QUESADA.

*To the secretary of the supreme government of the State, Chihuahua.*

[Seal: Office, Political Chief, District of Guerrero, State of Chihuahua, Mexico, No. 112.]

In a communication of the 27th instant, the political chief of the canton Degollado reports to this office as follows: "The rural judge of the mining town Dolores, under date of the 27th instant, gives me the following news which I have just received and which I copy *verbatim*: 'At 11 a. m. to-day, this town was attacked by the hostile Indians, and only by good fortune many were saved from falling victims; until this hour (7 p. m.) the following have been killed: A Frenchman, Juan Wilson; Procopio Celey-

andia, and Ascension Hernandez; and these seem to have been killed because they did not take to shelter, as did Pedro Urquidi, who was in their company. It has been extremely difficult to inspect the ground so as to learn the number of Indians, as they have occupied dominant points, and it is open daylight; to judge by the tracks that have been seen by some persons, according to verbal report, there must be many Indians, wherefore they keep up a fire from different points and have already occupied some of the huts at the upper part of the gulch. It would be tedious to give all the details; I confine myself only to telling you that I do not think the inhabitants are in imminent danger, but deem it my duty to make this report. It is to be believed, or rather to be expected, that we shall be besieged, and we have too few people to dislodge them and to pursue them with the plunder which they have with them; so we had to decide to exclusively defend our homes.' The above copy I forward to you that, using the wire from your place, you may communicate the occurrence to the State executive."

The above I send to you for the information of the governor.

Liberty and constitution.

Canton Guerrero, October 31, 1885.

R. GONZALEZ.

*To the secretary of the supreme government of the State, Chihuahua.*

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[Seal: Office Political Chief, Canton Degollado.]

This day I forward to the political chief of the district of Guerrero a copy of the following report, which I have just received from the commissary of police of the mining district of Dolores:

"At 11 a. m. to-day this settlement was attacked by the hostile Indians, and it is only by good fortune that many were saved from falling victims. Until this hour (7 p. m.) there have been found killed: The Frenchman Juan Wilson, Procopio Celeyandia, and Ascension Hernandez; and they seem to have been killed, it seems, because they did not take to shelter as did Pedro Urquidi, who was in their company. It has been extremely difficult to inspect the ground so that the number of Indians might be learned, as they have occupied dominant positions and it being broad daylight; but to judge from the tracks that have been seen by some persons, according to verbal report, there must be many Indians. They are keeping up firing from different points, and have already occupied part of the huts of this town at the upper end of the gulch. It would be tedious to go into the details, so I shall confine myself to informing you that while, in my judgment, the inhabitants are in no imminent danger, yet I deem it my duty to make this report, &c. It may be believed, or rather expected, that we shall be besieged, and we have too few people to dislodge them and to follow them with their plunder, so that we shall be forced to remain exclusively on the defensive in protection of our homes."

Foregoing copy I send you for the information of the governor, and request you will state to him that from the frequency with which news like the above is received here, I am led to believe that the number of hostiles that have actually invaded this locality must be large; that said Indians, according to their customary tactics, are divided into small, scattered bands, by which means they can with impunity commit thefts and murders without number; finally, please call his attention to the fact that last year, by order of the governor of the State, the arms, ammunition, and other stores that had been issued to this canton for its protection had to be returned. To-day I have sent out twenty-five or thirty men to give some, perhaps ineffectual, assistance to inhabitants of above mentioned mining town. Be pleased also to state to the governor himself that I permit myself to suggest the means by which the evils that I have mentioned may be avoided, and that is that without delay a campaign be begun by a force of men who are well acquainted with the mode of warfare among the Apache Indians.

Liberty and constitution.

Temosachic, October 27, 1885.

Sergio QUEZADA.

*To the Secretary of the Supreme Government of the State, Chihuahua.*

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[Seal: Office political chief, Canton Degollado.]

To-day returned to this county seat the twenty-five men who, under orders of Teodoro Ramirez, were sent to assist the mining town Dolores. In the report made by said Ramirez to this office, he states that on his march, at a point called Los Jacales, three Indians were seen at a distance, who fired several times at him and his force; that his men returned the fire until they managed to dislodge the Indians from the place where

they had intrenched themselves, in doing which he expended fifty rounds of the ammunition belonging to the State, which had been issued to him by the political chief. He also states that he recovered three horses that had been abandoned by the Apaches, of which he turns over to this office one only, because he was unable to bring the other two on account of their being broken down. He states, finally, that upon his arrival with his force at aforesaid mining town, the attacking Indians, who were still keeping up a slack fire, retreated in the direction of the River Haros; that there must have been, by his estimate, thirty warriors. Be pleased to bring this to the knowledge of the governor.

Liberty and constitution.

Temosachic, November 11, 1885.

Sergio QUEZADA.

*To the Secretary of the Supreme Government of the State, Chihuahua.*

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*First court of first instance of the canton Degollado.*

TEMOSACHIC, February 16, 1886.

In order to comply with orders from superior authority, dated 15th instant—copy where of transmitted by the political chief of this canton—let the following persons be subpoenaed: Eutiquio Vargas, Santana Munoz, Pablo Trujillo, Julian Vega, Ricardo Varela, Jaan Varela, Pablo Miramontes, Tiburcio Jurado, Luis Macias, and Augustin Munoz; this for the purpose of taking their testimony as to the facts that occurred during the action at Teopar, January 11, last. That being concluded, the further necessary orders will be given. Celso Rascon, the first judge of the first instance of this canton has thus decreed, ordered, and affixed his signature in presence of his court witnesses.

So we certify.

CELSE RASCON.

A. FRANCO GARCIA.

A. B. AGUIRRE.

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TEMOSACHIC, February 17, 1886.

The citizens named in foregoing decree appeared before the court and were duly sworn. They stated that their respective names are as above set forth, that they are of age, residents of this canton, eight of them married, two of them bachelors, all of them farmers. Being examined as to the facts occurred in the armed conflict above referred to, and being requested to state what they knew about the same, as having seen the affair, they testified: That on January 10 last, at about 11 or 12 o'clock of the day, they descried the Indians from a place called Divisadero; that the latter were at considerable distance, so far that they could be seen only through a spy-glass; that affiants remained for the rest of that day at that place; that so soon as it became dark the column was put in motion in the direction of the Indians, who were not suspected to be a regular expedition, as affiants had never seen the like; that they arrived at said point at about 7 a. m., on the 11th of the same month, and they being ordered to attack, the action began; that they advanced to where the enemy was; that before they could see the latter they were already within the lines where the Indians had taken shelter, when the Indians gave a yell and at the same time fired a volley, which the Mexicans answered; and that the firing was then kept up so hotly, that affiants thought they would have to succumb, as they perceived that the hostile force was superior; so that at last they decided they would have to die or to conquer in order to be safe; that they rushed over the Indians' breastworks and managed to dislodge the Indians and to put them soon to flight, without noticing during all that time that there were any Americans, until the Indians were fleeing, when they became aware of the Americans, who were making signals of peace, entered into negotiations with their officers, and made all necessary arrangements; that on inspecting the camp, they found two donkeys that the Indians had taken from the mining town of Dolores during the attack on that place, and which were the property of Melquiades Vargas; that they also found a mare belonging to Mr. Escandon, which, when they demanded it on the following day, was found killed; they also found one other mare that had been taken from that canton; that the Americans gave up the latter and the two donkeys; that they also recognized another grayish horse, which the Indians had taken at Las Varas during the month of June, and which belonged to the Americans who live at that place. Finally, deponents declare that the Indians delivered the first fire, and that the Americans themselves stated during the parley with the Mexican commanders that they had known of the expedition of the Mexicans three days previous.



Deponents declared that above is all they have to say, that their testimony—which was read to them—is true; whereupon those who were able to do so, affixed their signatures, together with me, the judge, and the court assistants. So we certify.

CELSO RASCON.  
LUIS MACIAS.  
EUTQUIO VARGAS.  
JUAN VARELA.  
RICARDO VARELA.  
A. B. AGUIRRE.  
A. LUIS MASCARENO.

TEMOSACHIC, February 19, 1886.

Let these proceedings be turned over to the political chief for such use as he deems fit to make of the same. So certified.

CELSO RASCON.

[Seal: Republic of Mexico, government of the State of Chihuahua.—No. 57.]

In compliance with telegraphic orders of the Secretary of War and Navy, dated 6th instant, I have the honor to transmit herewith, in forty-three folios manuscript, the proceedings of an investigation instituted by the judge of the district, in this capital, to ascertain the occurrences that took place at Teopar, Sonora, on the 11th of last January.

Liberty and constitution.

Chihuahua, February 24, 1886.

FELIX FRANCO MACEYRA.  
N. GAMERA, *First Official*.

*To the Secretary of War and Navy, Mexico.*

[Seal: Republic of Mexico, government of the State of Chihuahua, Section 2, War Branch, No. 26.]

The political chief of the canton Degollado, in a communication dated on the 19th of last month, reports to this office as follows:

"I inclose herewith the proceedings of the judicial investigation that was requested by you under date of the 8th instant, relative to the encounter that residents of this canton and of that of Guerrero had with the forces of Americans and savage Indians at Teopar, that by you it may be brought to the knowledge of the governor for the necessary action."

The foregoing I have the honor to quote, and to transmit the original proceedings therein mentioned.

Liberty and constitution.

Chihuahua, March 1, 1886.

FELIX FRANCO MACEYRA.  
N. GAMERO, *First Official*.

*To the Secretary of War and Navy, Mexico.*

[Seal: Office, political chief, canton Degollado.]

The first official of the secretary of government, in a communication dated February 8, this year, states to me as follows:

"The minister of war and navy, by a telegram dated 6th instant, states to the governor:

"Referring to the official communication, No. 50829, of last month, the interests of the republic require that you hold an investigation, taking, before competent authority, testimony regarding the fact that residents of the cantons Degollado and Guerrero were attacked at Teopar by a troop of Americans and Indians before the volunteers used force of arms against said troop; also regarding the fact that in the American camp were found animals stolen by savage Indians. I request that you will send to this office the proceedings of such investigation as soon as possible."

"I quote the foregoing by orders from higher authority, that you may, with all possible speed, institute the investigation referred to."

I have the honor to send you a copy of foregoing, with the object that you will take the testimony of ten citizens of greatest veracity, selected in your judgment; and that, when this is done, you will send the proceedings to me for legal action.

Independence and liberty.

Temosachic, February 15, 1886.

JOSE DE LA LUZ RAMIREZ.

*To the 1st Judge of the Court of 1st Instance of the Canton Degollado.*

A true copy.

Mexico, May, 1886.

EDUARDO GARAY,  
Chief Clerk.

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APPENDIX No. 2.

[Translation.]

[Seal: State of Chihuahua, court of justice of the peace, district Guerrero.]

*Investigation of the occurrences which took place at Teopar, instituted at request of Adjutant-Major Francisco I. Boza, by order of the general commanding the second military zone.*

Interrogatory for the examination of the following witnesses: Ramon Chavarria, José Maria Romero, Herculano Coz, Jesus Campos, Agapito Romero, Francisco Araiza, Apolinar Zapien, Fabian Martinez, Trinidad Calderon, Laureano Corredor, Roque Ramos, Enriquez Gonzalez, Juan I. Enriquez, Anastasio de la Cruz, Marcelino Ramos, Martin de la Cruz, Enrique Techoné, Juan José Ramos, Ignacio de la Cruz.

After a statement of their age, residence, etc., they will be required to say:

1. Which side made the first attack?
2. Was Captain Crawford wounded after a parley was requested?
3. Was he wounded after he had turned his back on retiring from the conference with the Mexican commander?
4. Did he wear uniform during the combat?
5. Did the Mexican officers order the attack, knowing that their opponents were not hostile Indians?
6. Did the Americans give you to understand that they had defeated hostile Indians, and that they held them prisoners together with their plunder?
7. Let them state how they came to know what they testify to.

City Guerrero, February 23, 1886.

FRANCISCO I. BOZA,  
Adjutant-Major.

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*Citizen justice of the peace of the district of Guerrero:*

I, Francisco I. Boza, senior adjutant-major of infantry, appear before you, and in compliance with the orders which I have received of the general commanding the second military zone, of which this State forms a part, which orders are to hold an exact and complete investigation regarding the occurrences that on January 11 last, took place at a place called "Teopar," and regarding the other facts to which the accompanying interrogatory refers. I beg you will be pleased to subpoena, without delay, the following citizens: Ramon Chavarria, José Maria Romero, Herculano Coz, Jesus Campos, Agapito Romero, Francisco Araiza, Apolinar Zapien, Fabian Martinez, Trinidad Calderon, Laureano Corredor, Roque Ramos, Ignacio de la Cruz, Marcelino Ramos, Martin de la Cruz, Enrique Techoné, and to take their testimony in accordance with said interrogatory; and that said proceedings take place in the presence of the agent of the public minister.

City of Guerrero, February 23, 1886.

FRANCISCO I. BOZA,  
Adjutant-Major.

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CITY OF GUERRERO, February 24, 1886.

In conformity with the directions of the supreme tribunal of justice of this State, as per telegram of this date, received at 11 a. m. to-day, at the solicitation of the presentor,

let the inquiry take place as requested, and the proceedings delivered to the party concerned, the public agent being cited to be present.

NOTICE.—The justice of the peace in this district has thus decreed, and affixed his signature in presence of his court assistants.

So we certify.

M. RUBIO.  
Witness: { SALVADOR GONZALES.  
              { R. CASAVANTES.

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The petitioner and the public agent being present, they stated that they have heard and are satisfied. They affixed their signatures together with me, the judge, and the court assistants. So we certify.

RUBIO.  
JOSÉ MARIA RICO, *Public Agent*.  
FRANCISCO I. BOZA, *Adjutant-Major*.  
Witness: { SALVADOR GONZALES.  
              { R. CASAVANTES.

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*Testimony of the witness Ramon Chavarria.*

In the city of Guerrero on the 27th day of February, 1886, appeared in this court the witness RAMON CHAVARRIA, who, being duly sworn, promised to answer and relate truthfully to the questions put, and stated: That his name is as above written, he is thirty-six years of age, bachelor, miner, native and resident of this place. Thereupon he was informed of the penalties awaiting false testimony, as given in chapter 7, title 4, book 3, of the penal code. Being then questioned in accordance with the foregoing interrogatory, which was carefully read to him, he made answer:

1. That the first to attack on January 11 last, at a place called Teopar, were the Apache Indians, who were there in ambuscade among some rocks.

2. That Captain Crawford, whose name he has just heard, did not ask for a parley, much less was he wounded after the cessation of the firing.

3. That said captain was not wounded from behind when he retired from the conference with the Mexican commander, because he whom they say was Captain Crawford, and whom he believes to have been an American, had a bullet wound in the head, a little above the forehead, and the affiant believes he (the captain) was killed.

4. During the combat none of the Americans, the wild and the tame Indians, wore any uniform whereby they might have been recognized as belonging to the Army of the United States; that the former were dressed in civilian clothes, and the latter had generally only moccasins and were bareheaded, with hair so long that it fell over their shoulders; that among them was found to be a Mexican who said his name was Concepcion, witness having forgotten his surname.

5. That the Mexican officers did not order the attack, because they only replied to the firing from the ambuscade, of which he spoke in his answer to the first question; which firing led to the supposition that it was from "wild," and not from "tame" Apaches.

6. That the Americans did not intimate that they had defeated hostile Indians; neither did they mention that they held such as prisoners, together with their plunder.

7. Being questioned as to the source of this knowledge of the foregoing, he replied that he knows it from having been one of those engaged in the encounter at Teopar on January 11 last.

The foregoing was read to him and he declared it to be correct, and affixed his signature, together with myself, the agent of the public minister, and the court assistants. So we certify.

RUBIO.  
RAMON CHAVARRIA,  
JOSÉ MARIA RICO, *Public Agent*.  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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*Testimony of José Ma. Romero.*

On the same date appeared JOSÉ MARIA ROMERO in obedience to subpoena, who being duly sworn to make truthful answer and relation, stated: That his name is as above written, he is twenty-two years of age, bachelor, day laborer, native and resident of Guade-



lupe, of this jurisdiction. Thereupon he was informed of the penalties for false testimony, as fixed in the Penal Code, chapter 7, title 4, book 3. Being questioned as to what he knows, in accordance with the preceding interrogatory, which was read to him, he made answer:

1. That the force which attacked first consisted of some Apaches, who prematurely opened fire upon the column when it was among some rocks.

2. That the captain whose name is mentioned was not wounded after he asked for parley, because from the time the parley was accorded not one of their column fired a single shot; and that it was not said captain who asked for the parley.

3. He repeats that said person was not the one who held a conference with the Mexican commander, and that the captain could not well have been wounded from behind when the bullet which he received was above the forehead.

4. That neither the captain nor any one else was seen in uniform during the combat; that the Americans were dressed like the generality of persons, and the Apaches were nearly naked.

5. That the Mexican officers did not give any orders to attack; that they only fired to defend themselves against the Apaches, who opened fire from an ambuscade which they had not noticed.

6. That the Americans did not make explanations of the sort mentioned in the question; and that furthermore, this is the first he has heard of it.

7. Being questioned as to the source of his knowledge of the foregoing, he stated: That his knowledge is derived from his having been an eye-witness to the occurrences that took place at Teopar on January 11, last.

The foregoing testimony having been read to him, he declared it correct, but did not affix his signature, being unable to write, this being signed by myself, the public agent, and the court assistants.

So we certify.

RUBIO.

JOSÉ MARIA RICO, *Public Agent*.

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

*Testimony of the witness Herculano Coz.*

Thereupon appeared the witness HERCULANO COZ, who, being duly sworn to make truthful answer and relation, stated: That his name is as above written; he is of age; bachelor; day laborer; native and resident of this place. He was informed of the penalties for false testimony, as prescribed in the penal code, chapter 7, title 4, book 3. Being then questioned as to his knowledge in accordance with the preceding interrogatory, which was read to him, he made answer:

(1) That they who first attacked were some Apache Indians, who were in ambush among some rocks, so that scarcely parts of their heads could be seen.

(2) That the captain, whose name he has just heard, did not ask for a parley, nor was he wounded after the cessation of the firing; that he believes the one who is now said to be named Crawford was the one whom the lieutenant that held the parley said was his commanding officer; that the one who seemed to be dead was an American, and had a wound in the forehead.

(3) That the captain could not well have been wounded from behind when he received the bullet wound in the place above mentioned; that said captain did not hold a conference with the Mexican commander, because when the firing ceased he was already *hors de combat*.

(4) That neither the captain nor any one else wore a uniform during the combat.

(5) That the Mexican officers did not order the attack, and they only replied to the fire upon them from aforementioned ambuscade; which circumstance led to the presumption that they were being fired upon by "wild" Indians.

(6) That the Americans said nothing about having defeated some wild Indians or their holding such as prisoners, together with their plunder.

(7) Being questioned as to the source of his knowledge of the foregoing, he replied that he knew it from having been an eye-witness to the facts.

The foregoing testimony having been read to him, he declared it to be correct. He did not affix his signature, together with that of myself, the agent of the public minister, and the court assistants, because he cannot write.

So we certify.

RUBIO.

JOSÉ MARIA RICO, *Public Agent*.

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

*Testimony of the witness Jesus Campos.*

Thereupon, on the same date, appeared JESUS CAMPOS, to give his testimony, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is thirty-three years of age; married; day-laborer; native and resident of this place. He was made acquainted with the penalties for false testimony, as laid down in the penal code, chapter 7, title 4, book 3.

Being then questioned as to his knowledge in relation to the interrogatory, which was read to him, he testified:

(1) That they who opened fire on January 11 at Teopar were some Apaches, who were found in ambush on extremely broken ground.

(2) That the captain to whom this question refers did not ask for a parley, nor was he wounded after the firing had ceased.

(3) That the captain was not wounded from behind; that the same, whose name is said to be Crawford, and whom he believes to be an American, appeared to have been killed by a bullet wound which he had received near the hair above the forehead.

(4) That during the combat neither the Americans nor the Apaches wore uniform.

(5) That the Mexican officers did not give orders to attack, but they only answered the fire directed upon them by the Apaches in ambush.

(6) That the Americans did not say anything regarding the point in this question, but that, from the unrestrained liberty in which the Apaches were going about, affiant judged that there were no prisoners.

(7) Being questioned as to the source of his knowledge of foregoing, he explained that it is derived from his having been, as he has already said, one of those who took part in the affair at Teopar.

The foregoing testimony having been read to him, he declared it correct. He did not affix his signature, together with myself, the agent of the public ministry, and the court assistants, because he declared himself unable to do so.

So we certify.

RUBIO.

JOSÉ MARIA RICO, *Public Agent.*

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

*Testimony of the witness Francisco Araiza.*

On the 1st day of May, 1886, appeared before this court FRANCISCO ARAIZA, in obedience to subpoena; who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is twenty years of age; bachelor; day-laborer; native and resident of this place. Hereupon he was informed of the penalties for false testimony, as stated in chapter 7, title 4, book 3, of the penal code. Thereupon, being questioned in accordance with the interrogatory, which was shown to him, he stated:

(1) That the force which made the attack at Teopar on January 11, last, was one consisting of some Apaches apparently hostile, who were found hidden among some rocks.

(2) That he does not yet know the name of the captain, but it is certain that the captain was not wounded after the parley, because when that was granted the (Mexican) campaigners did not fire another shot.

(3) That, as he said before, after the parley not a single shot was fired, nor was above-mentioned captain wounded after it; because, as affiant believes from what was said on the battle-field, it was an American who, during the firing, received a wound above the forehead, which wound left him apparently dead.

(4) That neither the captain nor the other Americans nor the Apaches wore uniforms during the combat; that the former were dressed like the generality of persons, and the others had breech-clouts and moccasins and long hair, and were bareheaded—were dressed like savages.

(5) That the Mexican officers did not order an attack; that their action consisted in replying to the firing from the ambush of which he made mention in the first question put to him.

(6) That neither the lieutenant who made the treaty nor any other Americans mentioned that they had defeated any hostile Indians, and that they held them as prisoners, together with their plunder.

(7) Being questioned as to the source of his knowledge of the foregoing, he stated that it results from his having been present at the occurrences referred to, because he was one of those who were at Teopar on January 11, last.

The foregoing testimony having been read to him, he declared it correct. Not being able to write, he did not affix his signature, as did I, together with the public agent and the court assistants.

So we certify.

RUBIO.  
JOSE MARIA RICO, P. A.  
Witness: { M. IRIGOYEN,  
              { SALVADOR GONZALES.

*Testimony of Apolinar Zapien.*

On the same date appeared APOLINAR ZAPIEN, for the same purpose as preceding witness, who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is of age; widower; farmer; native of Morelos, and resident of this canton. He was then informed of the penalties for false testimony, as stated in chapter 7, title 4, book 3, of the penal code. Thereupon, being questioned as to his knowledge of the points covered by above interrogatory, which was read to him, he stated:

1. That they who first attacked at Teopar on January 11 last were some Apaches who were found in ambush, almost entirely hidden among some rocks, parts of whose heads could only now and then be seen, as besides the ground being favorable to them they had also made trenches and parapets, the better to hide themselves.

2. That neither Captain Crawford (whose name he just now hears), nor anyone else, was wounded after the parley, because not a single shot was fired after that.

3. That said captain could not well have been wounded from behind on going back from the conference with Commander Santana Perez, as he did not speak with the latter, because he who made the treaty was another American, said to be a lieutenant who acted as commander because his captain had been killed during the battle, having received a wound above the forehead.

4. That neither said captain, nor he who was called lieutenant, nor any one else, was dressed in uniform to indicate that they were soldiers—the Americans were in civilian dress, and the Apaches had mostly only breech-clouts, moccasins, and were bareheaded, the above-mentioned lieutenant appearing in military dress on the day after the treaty was made.

5. That the Mexican officers did not order the attack; that it could not be supposed that those who from said ambush attacked the column were civilized beings, because such are acts indicating plainly the class of persons who in such a cowardly manner attempted to assassinate the campaigners.

6. That the Americans said nothing on the point covered by this question, and that to-day for the first time he hears any talk of such circumstance.

7. Being questioned as to the source of his knowledge of above evidence, he stated that his knowledge is derived from his having been a witness to the occurrences which he related, and he affirmed them to be true. He did not affix his signature to this testimony (which I certify that I read to him) because he is unable to write. I then sign, together with the agent of the public minister and the court assistants.

So we certify.

RUBIO.  
JOSE MARIA RICO, P. A.  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

*Testimony of Fabian Martinez.*

Thereupon, and on the same date, appeared FABIAN MARTINEZ, in obedience to subpoena, who being duly sworn, promised to speak the truth. He then stated that his name is as above written; he is of age, day laborer, native, and resident of this place. He was then informed of the penalties for false testimony prescribed in the Penal Code, chapter 7, title 4, book 3. Being then questioned as to his knowledge on the points covered by the interrogatory, which was read to him, he stated:

1. That the force which attacked first was one composed of some Apaches who were found hidden.

2. That the captain, whose name had just been told him, was not wounded after requesting a parley, because it took place when he was already killed.

3. That the captain was not wounded from behind, nor did he have a conference with the Mexican commander, because when the parley was requested by the Apaches



and Americans, said captain was already *hors de combat* from a wound above the forehead, which apparently killed him.

4. That the captain did not wear a uniform, but a common dress; affiant remembers that the captain's pantaloons were black.

5. That the Mexican officers did not order the combat; that their detachment only replied to the fire opened upon them from said ambuscade.

6. That the Americans said nothing that could lead to the belief that they had defeated "wild" Indians, and that they held such as prisoners, together with their plunder; that far from this, all the Apaches whom they saw were walking about with perfect liberty.

7. Being questioned as to the source of his knowledge of the above, he said: That it comes from his having been one of those who took part in the occurrences that took place at Teopar on January 11th, last.

The foregoing testimony being read to him, he declared it to be correct. He did not affix his signature, together with myself, the agent of the public minister, and the court assistants, because he was unable to write.

So we certify.

RUBIO.  
JOSÉ MARIA RICO, P. A.  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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Thereupon appeared TRINIDAD CALDERON, who being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is thirty years of age; married; farmer; native of Yepomera, and resident of this place. He was then informed of the penalties for false testimony as prescribed by the Penal Code, chapter 7, title 4, book 3. Being questioned as to his knowledge in accordance with foregoing interrogatory, with which he was made acquainted, he stated:

1. That the force that made the first attack at Teopar on January 11, last, consisted of some Apaches, who were found in ambush among some rocks.

2. That the captain, whose name he has just heard, did not request a parley, and that he was not wounded after the firing ceased.

3. That he was not wounded from behind on returning from a conference, because he had received a wound in the head, above the forehead, during the combat, which apparently occasioned his death; and that after this accident the other Americans and some Apaches from between the rocks exhibited rags or handkerchiefs as a signal for a parley, which was immediately granted.

4. That neither he nor any of the other Americans wore uniform, neither did the Indians; the former were in civilian dress and most of the latter wore breech-clouts and moccasins, with hair falling over their shoulders.

5. That the Mexican officers did not order the attack, and that they only responded to the firing from the ambuscade, by which they were surprised.

6. That the Americans did not intimate that they had defeated hostile Indians, nor that they held them prisoners together with their plunder.

7. Being questioned as to the source of his knowledge of foregoing, he stated that his knowledge is derived from his having been present at above said occurrences.

The foregoing testimony having been read to him, he declared it correct. He did not affix his signature, as was done by myself, the public representative, and the court assistants, because he is unable to write.

So we certify.

RUBIO.  
JOSÉ MA. RICO, P. A.  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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Thereupon, on the same date, appeared LAUREANO CORREDOR, who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is a native (*i. e.*, of *Indian descent*); thirty-six years of age; married; farmer; born and resides in Ariciachic, in this jurisdiction. Thereupon the penalties for false testimony, as prescribed by the Penal Code, chapter 7, title 4, book 3, were explained to him in detail. Being questioned as to his knowledge in accordance with foregoing interrogatory, he stated:

1. That it was a force of Apaches, who were in ambush on the right of the direction taken by the detachment that went out from this cañon and the cañon Degol-

lado, who made the first attack and whose firing caused the death of his brother, the commandant.

2. That the captain, whose name is mentioned, and whom he supposes to have been an American, who received a wound in the forehead, did not request a parley, because that took place after the killing of the Commandant Mauricio and of said Crawford, the latter of whom the Americans stated was their commander, although they did not mention his name.

3. That, as he has already stated, said American did not have a conference with any one of their column, and that said captain could not well have been wounded from behind, his wound being in the place above mentioned.

4. That neither that American or any of the others were in uniform; that the Apaches wore only breech-clouts and moccasins.

5. That the Mexican officers did not order the attack, and that they could not know they were fighting against Americans and tame Indians, because the Americans did not show themselves until the firing had ceased, and the Apaches within sight were dressed like the hostile Indians in whose pursuit the Mexicans were engaged.

6. That he did not hear the few Americans whom he saw and with whom he spoke say that they had defeated hostile Indians and held them prisoners together with their plunder.

7. Being questioned as to how he came to know the foregoing, he stated that he knows it from having seen it, because he was one of those who were at Teopar on January 11 last.

The foregoing testimony having been read to him, he declared it correct. He did not affix his signature together with me, the judge, the public representative, and the court assistants, because he is unable to write.

So we testify.

RUBIO.

JOSÉ MA. RICO, P. A.

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

On the same date appeared ROQUE RAMOS, to give testimony in accordance with the subpoena received. He was duly sworn, and promised to make truthful answer and relation, and then stated: That his name is as above written; he is of age; a native; married; farmer; was born and resides at Ariciachic, in this jurisdiction. He was informed of the penalties for false testimony as prescribed in the Penal Code, chapter 7, title 4, book 3. Being then questioned as to his knowledge, in accordance with the foregoing interrogatory, with which he was made acquainted, he stated:

1. That the force which made the first attack consisted of some Apaches, who were found in ambush to the right of some of their trails; the result of the first shots fired being the killing of the Commandant Mauricio Corredor.

2. That Captain Crawford was not wounded after requesting a parley, because the latter took place when said captain was already apparently dead, after a combat having lasted about an hour and a half, at a time when some of the Apaches were abandoning their possessions and were jumping in, moccasins and all, into the river; that it was at this time, when from some of the positions occupied by the Apaches were seen some white rags or kerchiefs as a signal, that a parley was desired, for which reason the firing ceased; that then, from between the rocks, came forth some Americans, who had not allowed themselves to be seen before, and that with some of these Commander Santana Perez held the conference.

3. That the captain, whose name is to-day made known to him, was not wounded from behind, because the only shot which he received, and which apparently caused his death, he received above the forehead.

4. That neither the captain nor any of the other Americans or Apaches that were encountered at Teopar wore any uniform; the former wore civilian dress, and the latter mostly wore only breech-clout and moccasins and were bareheaded.

5. That the Mexican officers did not order the attack; that they did not suppose that in said ambush would be found Americans and somewhat civilized Indians.

6. That none of the Americans nor the Mexican with whom they spoke said anything about having defeated hostile Indians and holding them as prisoners, together with their plunder.

7. Being questioned as to the source of his knowledge of what he has stated, he replied that his knowledge is derived from having been present at the occurrences, as he was one of the campaigners in the encounter at Teopar on January 11 last.

The foregoing testimony having been read to him, he declared it correct. He did not affix his signature, together with the subscribers, because he is unable to write.

So we certify.

RUBIO.

JOSÉ MARIA RICO, P. A.

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

On the 2d of March, 1886, appeared before this court JUAN J. ENRIQUEZ, who was duly sworn, and promised to make truthful answer and relation. He then stated that his name is as above written; he is of age; a native; married; farmer; was born and resides at Ariciachic, in this jurisdiction. Thereupon he was informed of the penalties for false testimony as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being then questioned as to his knowledge, in accordance with foregoing interrogatory, he stated:

1. That the force which first attacked, on January 11 last, at Teopar, consisted of some Apaches, who were in ambush between some rocks.

2. That the captain, whose name he has just learned, was wounded during the combat, and that therefore it was not he who requested the parley, because when that took place said captain was already apparently dead.

3. That the captain did not hold a conference with the Mexican commander, nor was he wounded from behind, because the shot which he received was in the head above the forehead.

4. That during the combat the captain did not wear uniform, neither did those who accompanied him.

5. The Mexican officers did not order the attack, and it was not to be supposed that they who from said ambush opened fire upon the column could be other than hostile Apaches.

6. That they said nothing about it to the Mexicans.

7. Being questioned as to the source of his knowledge of the above, he stated that his knowledge is derived from having been present at said occurrences.

Foregoing testimony was then read to him and he declared it correct. He did not affix his signature, being unable to write. This was signed by me, the judge, the public representative, and the court assistants.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

On the same date appeared ANASTASIO DE LA CRUZ, who being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is a native; twenty-one years of age; farmer; was born and resides at Ariciachic. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being then questioned as to his knowledge, in accordance with the foregoing interrogatory, which was read to him, he stated:

1. That the force which first attacked consisted of some Apaches, who were hidden and opened fire upon the column, and who, after firing some shots, killed the commandant, Mauricio Corredor.

2. That he supposes that the captain, whose name has just been told him, was an American, who seemed to have been killed by a bullet wound in the forehead; but that the same did not request a parley, because he was put *hors de combat* during the firing.

3. That he was not wounded from behind, because he received a bullet in the head above the forehead; and that, as witness said before, said captain did not have a conference with any of the campaigners.

4. That the captain did not wear uniform during the combat, nor did the others with whom they fought wear such.

5. That the Mexican officers did not order the attack; they seeing themselves obliged, however, to reply to the fire opened upon them from said ambush, which caused them to suppose that they had to do with hostile Apaches.

6. That the Americans said nothing about having defeated hostile Indians and holding them as prisoners, together with their plunder.

7. Being questioned as to the source of his knowledge of the above, he stated that he derives it from having been present there.

Foregoing testimony having been read to him, he declared it correct. He did not affix his signature, because he is unable to write. This was then signed by myself, the representative of the public ministry, and the court assistants.

So we certify.

RUBIO.

JOSÉ MARIA RICO, P. A.

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.



Immediately thereupon appeared AGAPITO ROMERO, who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is 20 years of age; bachelor; native, and resident of this place. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the penal code. Being then questioned as to his knowledge, in accordance with the above interrogatory, which was read to him, he stated:

1. That the force which on January 11 last attacked first at Teopar was composed of some Apaches, who were found to be in ambush.

2. That the captain, whose name had just been mentioned, was wounded and placed *hors de combat* before a parley was requested, which was done just when said captain appeared to have been killed, and when many of the Apaches were in great disorder, they throwing themselves, mocasins and all, into the river, which is very near to that place; that these circumstances caused several of those who were among the rocks to hoist above their heads white rags or kerchiefs as a signal for a parley, which was immediately granted, and was held by an American, who was said to be a lieutenant.

3. That the captain was not wounded from behind, because the bullet wound which he received was in the forehead, nor did he confer with the Mexican commander.

4. That the captain did not wear uniform during the combat, neither did any of the other Americans or Apaches wear such.

5. That the Mexican officers did not order the attack; that their column was surprised by a fire unexpectedly opened upon it from said ambush, the attack being very sudden, and causing, after some shooting, the death of the commandant, Mauricio Corredor.

6. That the Americans whom he heard speak said nothing about having defeated hostile Apaches and holding them as prisoners, together with their plunder; that this is the first he hears of that.

7. Being questioned as to the source of his knowledge of the above, he stated that it is founded on his having been at Teopar on said day when above-mentioned acts took place.

Foregoing testimony having been read to him, he declared it correct. He did not sign together with me, the judge, the representative of the public ministry, and the court assistants, because he is unable to write.

So we certify,

RUBIO.

JOSÉ MARIA RICO, P. A.

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

On the same date appeared JUAN J. RAMOS, in obedience to subpoena, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is of age; native; farmer; married; was born and resides at Ariciachic in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being then questioned as to his knowledge, in accordance with foregoing interrogatory, which was read to him, he stated:

1. That the force which made the first attack consisted of some Apaches who were hidden between some rocks to the right of the direction taken by the column.

2. That he supposes that it was an American who had received the bullet wound in the head, of which, in his opinion, the same died, and who to-day is said to have been named Captain Crawford; but that gentleman did not request a parley, because long before that was done said American was *hors de combat*; and this one, after the conclusion of the treaty, was said by the other Americans to have been their commander.

3. That the captain was not wounded from behind, certainly not after the conference with the Mexican commander; that he could not have received the wound from behind, as it was above the forehead; and when the treaty was made he was already apparently dead.

4. That the captain did not wear a uniform during the combat, but wore civilian dress and his pantaloons were black.

5. That the Mexican officers did not order the attack; that they only replied to the fire opened upon them from said ambush.

6. That he heard nothing said at Teopar regarding the point in this question.

The foregoing testimony being read to him he declared it correct. He did not sign this, because he was unable to write. It was then signed by myself and assistants.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

Thereupon appeared IGNACIO DE LA CRUZ, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is of age; a native; was born and raised at Ariciachic in this jurisdiction; is married and a farmer. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being then questioned as to his knowledge, in accordance with foregoing interrogatory, which was read to him, he stated:

1. That they who opened the fire on January 11 at Teopar, were some Apaches that were found hidden in very broken ground.

2. That the captain, to whom this question relates, did not request a parley, nor was he wounded after firing was suspended.

3. That the captain was not wounded from behind, because affiant believes that it was the American whose name is said to have been Crawford, who received a bullet wound in the forehead, and who was said by the other Americans after the negotiation to have been their commander.

4. That neither the captain nor the other Americans nor the Apaches wore any uniform.

5. That the Mexican officers did not order the attack; that it could not have been supposed that the Apaches and others who fought from ambush were other than hostiles; that besides their being in ambush their dress consisted only of breech-clout and moccasins, and they were bareheaded; that is, they looked precisely as the hostiles whom he had sometimes seen on the war-path.

6. That the Americans said nothing on that point; that, therefore, he cannot say anything about it.

7. Being questioned as to the source of his knowledge of above statements, he replied that it was derived from the relator having been present there.

The foregoing testimony having been read to him, he declared it correct. He did not sign, because he was unable to write. This was then signed by myself, my assistants, and the agent of the public ministry. So we certify.

RUBIO.

JOSÉ MARÍA RICO, P. A.

M. IRIGOYEN.

Witness: { SALVADOR GONZALES.

On the same date appeared MARCELINO RAMOS, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is twenty-one years of age; a native; married; farmer, and was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being then questioned as to his knowledge, in accordance with foregoing interrogatory, with the contents of which he was made acquainted, he stated:

1. That a force of Apaches who were found in ambush to the right of the direction taken by the column, was the first to attack, and that the shots fired by them soon caused the death of the commandant, Mauricio Corredor.

2. That the captain, whose name is mentioned—he believes him to have been the American who was wounded in the forehead—did not request a parley, nor did he have a conference with any of the campaigners; that the parley took place after the apparent death of said Captain Crawford, whom the Americans said to have been their commander, although they did not give his name.

3. That, as has been stated, Crawford did not have a conference with any of the campaigners; that he could not have received the wound from behind, because he received it in the forehead.

4. That neither the said American nor any of the others wore uniform; that the Apaches wore only breech-clout and moccasins, had long hair, and were bareheaded.

5. That the Mexican officers did not order the attack; nor did they know they were fighting against Americans and “tame” Indians, because the Americans did not let themselves be seen until after firing had ceased, and the Apaches whom they had seen were dressed the same as the hostile Indians of whom they were in pursuit.

6. That he did not hear the few Americans with whom he spoke say that they had defeated hostile Indians and held them prisoners together with their plunder.

7. Being questioned as to the source of his knowledge of foregoing statements, he replied that it is derived from his having been present at Teopar, as he has already stated.

Foregoing testimony having been read to him, he declared it correct. He did not sign it, not being able to write. This was then signed by myself—the judge—together with the agent of the ministry and my assistants.

So we certify.

RUBIO.

JOSÉ M. RICO, P. A.

M. IRIGOYEN.

Witness: { SALVADOR GONZALES.

On the third day of the same month, March, 1886, appeared before this court MARTIN DE LA CRUZ, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above given; he is of age; a native; farmer; married; was born and resides at Ariciachic in this jurisdiction. He was then fully informed of the penalties for false testimony, as prescribed in the Penal Code, chap. 7, title 4, book 3. Being questioned as to his knowledge of the points in foregoing interrogatory, which was read to him, he stated:

1. That some wild Apaches who were at Teopar opened fire first.
2. That he is not aware that the captain, whose name is mentioned, was wounded after requesting a parley; he supposes that could not have been the case, because after the parley took place not another shot was fired.
3. That if said captain was the American whom the lieutenant that made the treaty called his commander, he was not wounded from behind, because he had a bullet wound in the forehead.
4. That no uniform was worn during the combat.
5. That the attack was not ordered by the Mexican officers, because the firing was commenced by said Apaches, who were mostly clad like the savages.
6. That they did not state that they had defeated hostile Indians, nor that they had taken from the latter their plunder.
7. Being questioned as to the source of his knowledge of his statements, he replied that it is derived from his having been one of the combatants, and he knows said occurrences as facts.

Foregoing testimony having been read to him, he declared it correct. He did not sign it, being unable to write. This was then signed by myself—the judge—together with the public representatives and my assistants.

So we certify.

RUBIO.  
JOSÉ M. RICO, *P. A.*  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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Thereupon appeared ENRIQUE TECHONÉ to testify, who, being duly sworn, promised to make truthful relation, and stated that his name is as above given; he is twenty-three years of age; unmarried; a native; farmer; was born and resides at this place. He was then fully informed of the penalties for false testimony, as prescribed in the Penal Code, chap. 7, title 4, book 3. Being questioned as to his knowledge of the points in foregoing interrogatory, which was read to him, he stated:

1. That some Apaches who lay in ambush were the first to attack.
2. That it was not Captain Crawford who requested a parley, but another American, said to be a lieutenant; that the former was wounded and apparently killed before the parley was held.
3. That he was not wounded from behind, because the bullet wound which he had, he received in the forehead during the combat.
4. That he did not wear uniform, nor did any of the others with him wear such.
5. That the Mexican officers did not order the attack, because the Indians who were in ambush opened the fire.
6. That the Americans did not make it known that they had fought and defeated the hostile Apaches, or that they had taken from the latter their plunder.
7. Being questioned as to the source of his knowledge of his statements, he replied: That it is derived from his having been one of the campaigners who fought at Teopar.

Foregoing testimony being read to him, he declared it correct. He did not sign, because he cannot write.

So we certify.

RUBIO.  
JOSÉ M. RICO, *P. A.*  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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Be it stated, that on the same date appeared the adjutant-major, who stated that he has been able to induce the following to come here: Fermin Chavez, and the natives Esteban Vidal, Jesus Leonardo, Jesus Ramos, Francisco Soliz, Valentin Gonzales, Ramon Gonzales, Alejandro Ramon, Reyes de la Cruz, and Manuel de la Cruz, stating that these also took part in the occurrences at Teopar, and he requests that the court will cause them to appear to testify in accordance with foregoing interrog-



atory. The court saw fit to grant the request, and ordered the above named to be immediately summoned for said purpose, and this was signed by the judge, the petitioner, and the court assistants.

So we certify.

RUBIO.  
FRANCISCO J. BOZA, *Major*.  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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Immediately thereupon appeared FERMIN CHAVEZ, who being duly sworn promised to make truthful answer and relation, and stated: That his name is as above given, he is 35 years of age, widower, farmer, was born and resides at Basuehil, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in the Penal Code, chap. 7, title 4, book 3. Being questioned as to his knowledge on the points in foregoing interrogatory, which was carefully read to him, he stated:

1. That the Apaches, being intrenched, opened fire upon the column, which suddenly found itself surrounded in a place where they were fired upon from all sides.

2. That according to what the Americans themselves said, the captain to whom this question refers was placed *hors de combat* during the firing, and that therefore it could not have been he who requested a parley; that the one who did make the request was a young American about 20 years old, who was wounded in one arm.

3. That, as he stated before, it was not said captain who held a conference with the commander of the column, and that the same was not wounded from behind, because they learned of an American, who was said to be a lieutenant, and of a Mexican named Concepcion Aguirre, that the person who is now said to have been named Crawford was apparently dead of a wound which had passed through him above the forehead, from right to left.

4. That he saw no one at Teopar in military dress; that the Apaches mainly wore only high mocassins, breech-clout, and long hair, and here and there one had his head covered by a red handkerchief.

5. That the Mexican officers did not order them to fire until they saw themselves compelled to do so by the shots which the Apaches in ambush directed upon the column.

6. That the Americans said nothing upon this point.

7. Being questioned as to the source of his knowledge of the foregoing statements, he replied, that it is derived from his having been at Teopar on said day, when he was present at the occurrences above related.

The foregoing testimony having been read to him, he declared it correct, and signed it, together with me, the judge, the agent of the ministry, and my assistants.

So we certify.

FERMIN CHAVEZ.  
RUBIO.  
JOSÉ M. RICO, *P. A.*  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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On the same date appeared ESTÉBAN VIDAL, who being duly sworn promised to make truthful answer and relation, and stated: That his name is as above written; he is of age, a native, married, farmer, was born and resides at Ariciachic, in this jurisdiction. He was then fully informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3, of the Penal Code.

Being asked to state what he knows on the points of the interrogatory, which was read to him, he replied:

1. That some persons who were hidden were the ones who first opened the fire upon the column.

2. That he is sure that the person who is now named to him was not wounded after requesting a parley, because he did not ask for it; that, besides, when once the firing had ceased not another shot was fired.

3. That, as already has been stated, it was not he who held the conference, and it is not to be supposed that he was wounded from behind, because the wound passed through the forehead, from one side to the other.

4. That none of the combatants at Teopar wore uniform.

5. That the attack was not ordered by the Mexican officers, who did not know that there were any Americans with the Apaches, as the Americans did not show themselves until after the firing ceased.

6. That the Americans said nothing regarding the subject of this question.

7. Being questioned as to the source of his knowledge of his statements, he replied, that it is derived from his having been at Teopar on January 11th, last, where said occurrences took place.

Foregoing testimony having been read to him, he declared it correct. He did not sign this because he is unable to write. This was then signed by myself, the judge, together with the agent of the public ministry, and the court assistants.

RUBIO.

JOSÉ M. RICO, P. A.

{ M. IRIGOYEN.

Witness: { SALVADOR GONZALES.

On the same date appeared JESUS LEONARDO, who being duly sworn promised to make truthful answer and relation, and stated : That he is a native, 50 years of age, married, farmer, was born and resides at Ariciachic, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3, of the Penal Code. Being questioned as to what he knows on the points of foregoing interrogatory, which was read to him, he stated.

1. That the force which at Teopar first fired on January 11 last was composed of some persons who were found between some rocks, and of whom only the heads could now and then be seen.

2. That the captain, whose name is given, was not wounded after requesting a parley.

3. That he was not wounded from behind, nor was it he who held a conference with the Mexican commander; that when the parley took place he was already *hors de combat*.

4. That he wore civilian dress, as did also the other Americans; that the Apaches were dressed as he has always seen the savages dressed whenever he has gone out in pursuit of them; and that for that reason he believes that those who were at that place were "wild" Apaches.

5. That it was when the column was forced to defend itself against the galling fire opened upon them on the very broken ground, that the Commanders Santana Perez and Mauricio Corredor fired upon the Apaches that could be seen; but that they did not at all suppose that the latter were accompanied by Americans, whom they did not perceive until after the firing was suspended.

6. That the Americans said nothing about having defeated the hostile Indians, and that they held them as prisoners, together with the plunder.

7. Being questioned as to the source of his knowledge of foregoing statements, he replied, that it is derived from his having been present at said occurrences.

Foregoing testimony having been read to him, he declared it correct, but did not sign it, he being unable to write. This was then signed by myself, the judge, together with the agent of the public ministry, and the court assistants.

So we certify.

RUBIO.

JOSÉ M. RICO, P. A.

{ M. IRIGOYEN.

Witness: { SALVADOR GONZALES.

Thereupon, on the same date, appeared JESUS RAMOS, to give testimony, who being duly sworn promised to make truthful statement, and said: That his name is as above given, he is a native, 40 years of age, married, farmer, was born and resides in this canton. He was thereupon informed of the penalties for false testimony, as expressed in chap. 7, title 4, book 3, of the Penal Code. Being then questioned as to his knowledge on the points in foregoing interrogatory, the contents of which were made known to him, he stated:

1. That it is public and notorious that the force which attacked first was one composed of some Apaches who were found hidden among some rocks.

2. That he was not wounded after requesting a parley, because when that took place, said captain was already apparently dead.

3. That he was not (wounded from behind), nor did he hold a conference with the Mexican commander.

4. That he saw absolutely not one of the combatants at Teopar in uniform.

5. That the Mexican officers did nothing except order to answer the attack made upon them from said ambushade.

6. That he did not hear the Americans say anything on this point.

7. Being questioned as to the source of his knowledge of what he has stated, he replied that it is derived from his having been, as above stated, present at all the occurrences.

The foregoing having been read to him, he declared it correct but did not sign, because he cannot write. This was then signed by myself, the public representative, and my assistants.

So we certify.

RUBIO.  
JOSÉ M. RICO, *P. A.*  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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On the same date appeared FRANCISCO SOLIZ, who being duly sworn, promised to make truthful answer and relation, and stated: That his name is as aforesaid; he is a native, thirty-two years of age, married, farmer, was born and resides in this municipality. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code, which was duly explained to him. Thereupon he was questioned as to what he knows on the points of foregoing interrogatory, and he stated:

1. That some Apaches who were in ambush were the first to attack.
2. That it was not the captain whose name is mentioned who requested a parley, but another American, who was said to be a lieutenant, for the reason that the former was already apparently dead when the firing was suspended.
3. That is not true that he held a conference with the Mexican commander, nor that he was wounded from behind; because the bullet wound which he received passed through the upper part of his forehead, from right to left.
4. That he wore civilian dress, as did also the other Americans, and that most of the Apaches wore only high moccasins, breech-clout, and the hair very long.
5. That the Mexican officers did not order the attack, because, as he has before stated, the attack was commenced by the Apaches, whose dress, as has been stated, was the same as used by the savages.
6. That the Americans did not say that they had fought the hostile Apaches, or that they had taken from them any plunder.
7. Being questioned as to the source of his knowledge of what he has stated, he replied that he derives it from having, as one of the campaigners, participated in the occurrences at Teopar.

Foregoing testimony having been read to him, he declared it correct, but did not sign because he cannot write. This was signed by myself, together with the public agent and the court assistants.

So we certify.

RUBIO.  
JOSÉ M. RICO, *P. A.*  
Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

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On the 4th of the same month, March, 1886, appeared VALENTIN GONZALES, who, being duly sworn, promised to make truthful answer and statement, and said that his name is as above stated; he is 22 years of age, a native, married, farmer, was born and resides at Ariciachic, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being questioned as to what he knows on the points in foregoing interrogatory, the contents of which were made known to him, he stated:

1. That the first to open fire on the 11th of last January, in the Sierra de Bavis, at a point called Teopar, were some Apaches, who were found between some rocks to the right of the direction taken by the column.
2. That said captain was not wounded after requesting a parley; that the firing lasted about an hour and a half, during which firing the captain whose name is given was killed.
3. That the captain having died before the firing was suspended, could not well have requested a parley after the firing ceased; and as to the wound, affiant does not believe that he received it from behind, because it passed through his forehead from side to side.
4. That during the combat he saw no one in military uniform; that he who made the treaty said that he was a lieutenant, who wore no uniform then, but did wear a jacket with red lining on the following day, although the rest of his dress was that of a civilian.



5. That the attack was not ordered by any of the Mexican officers, and that, as before stated, the Apaches first fired upon the column, taking advantage of the ambush in which they were.

6. That he heard no one of the Americans with whom he spoke say anything regarding the point in this question.

7. Being questioned as to the source of his knowledge of above statements, he replied that it is derived from his having been one of those who fought at Teopar on January 11 last.

Foregoing testimony having been read to him, he declared it correct, but did not sign because he cannot write. This was then signed by myself, the judge, together with the public agent and court assistants.

So we certify.

RUBIO.

JOSÉ M RICO, *P. A.*

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

Thereupon appeared RAMON GONZALES, who being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is a native; 40 years of age; married; farmer; was born and resides at Ariciachic, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being questioned as to what he knows in relation to the points in the preceding interrogatory, which was read to him, he stated:

1. That when the column which went out in pursuit of the Apaches arrived at a point in the Sierra de Bavis called Topar, having that far followed the trail which they had struck a few days before, and where on the preceding day they had seen the Apaches encamped, the latter opened fire from some positions at close range where they were hidden, upon the arrival of the column on very bad ground; that the first to be killed was the commandant, Mauricio Corredor, after the latter had already compelled some of the Indians to flee from the positions held by them, to do which the Mexicans had to storm the positions, arriving so near to said Apaches that one of the soldiers, Herculano Coz, whose rifle became unserviceable, had to make use of his knife.

2. That he supposes that the captain, called Crawford, was the American who during said firing was apparently killed, and who afterwards was said by the Americans to have been their commander; that the death of said individual and the flight of some of the Apaches who, with moccasins and all, jumped into the river near by, obliged some of the persons among the rocks further away (from the river) to raise white handkerchiefs or rags above their heads as a sign that they requested a parley, which was granted immediately, and after which not another shot was fired; that when the firing had ceased they saw with surprise that many of those who had waved the rags were Americans, one of whom, calling himself a lieutenant, held the conferences.

3. That said captain was not wounded from behind, because the bullet wound received by him passed through his forehead from one side to the other; and that, as he has said, it was not the captain who held the conference with the Mexican commander.

4. That neither he nor the other Americans and Apaches wore any uniform on said day; but on the following day he who said he was lieutenant wore a military jacket.

5. That the Mexican officers were not the ones who ordered the attack; that while the column was on the march in pursuit of the Apaches they were surprised by the fire of the latter when they least expected it, owing to their not knowing the ground; that furthermore they never supposed that Americans were among the Apaches, as those did not allow themselves to be seen until the firing had ceased.

6. That he absolutely did not hear the Americans say anything on this subject.

7. Being asked to tell the source of his knowledge of above statements, he replied that it is founded on the truth of the occurrence and on his having been present at Teopar on January 11 last.

RUBIO.

JOSÉ MARIA RICO, *P. A.*

Witness: { M. IRIGOYEN.  
{ SALVADOR GONZALES.

Immediately thereupon appeared ALEJANDRO RAMOS, who being duly sworn, promised to make truthful answer and relation, and stated that his name is as above given, he is a native, twenty-one years of age, married, farmer, was born and resides at

Ariciachic. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3 of the Penal Code. Being questioned as to his knowledge on the points in the foregoing interrogatory which was read to him, he replied :

1. That some hostile Apaches were the ones who made the first attack.
2. That the captain whose name is mentioned was wounded long before a parley was requested ; that when the parley took place said captain was already apparently dead.
3. That the bullet wound which he had was through the forehead above the temples, from side to side, which circumstance proves conclusively that he was not wounded from behind.
4. That he did not wear uniform during the combat.
5. That the Mexican officers did not order the attack ; that they were compelled to attack through the firing from the ambuscade into which they had fallen.
6. That the Americans did not say that they had defeated the Indians and had taken their plunder from them.
7. Being questioned as to how he knows what he has stated, he replied, because the foregoing are actual facts, which affiant witnessed.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself (the judge), the public agent, and the court assistants.

RUBIO.

JOSÉ M. RICO, *P. A.*

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

Thereupon appeared REYES DE LA CRUZ, who, being duly sworn, promised to make truthful answer and relation, and stated : That his name is as above given ; he is a native, 32 years of age, married, farmer ; was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3, of the Penal Code. Being questioned as to what he knows on the points of foregoing interrogatory, which was read to him, he replied :

1. That when the column was just coming out of a small ravine on to very bad terrain they were surprised by the fire opened upon them by some Apaches, who, behind some rocks and parapets built by them, lay in ambush.
  2. That the captain to whom this question refers did not request a parley, because when the firing was suspended he was already dead.
  3. That he does not know whether the captain was wounded from behind, but the bullet wound received by the latter was from side to side of the head, above the forehead.
  4. That the captain did not wear uniform, nor did affiant on that day see any of the other Americans or the Apaches in uniform ; that it was on the day following the parley when he saw the one who made the treaty going about in military dress.
  5. That the Mexican officers did not order the attack, nor did they suppose that with the Apaches were some Americans, because these did not let themselves be seen till after the firing had ceased.
  6. That he did not hear any person at Teopar say anything on this point.
  7. Being questioned as to how he knows what he has stated, he replied : That his knowledge is derived from his having been one of the combatants at Teopar on January 11, last, and he was therefore witness to the occurrences there.
- Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. So we certify.

RUBIO.

JOSÉ M. RICO, *P. A.*

Witness: { M. IRIGOYEN.  
              { A. SALVADOR GONZALES.

Thereupon on the same date, appeared HILARIO DE LA CRUZ, to give testimony, who being duly sworn promised to make truthful statement, and stated : That his name is as above written, he is a native, thirty-five years of age, married, farmer, was born and resides at Ariciachic in this jurisdiction. He was then informed of the penalties for false testimony as prescribed in chap. 7, title 4, book 3, of the Penal Code. Being questioned as to what he knows in relation to foregoing interrogatory, he stated :

1. That the force which attacked first at Teopar consisted of some Apaches who, from behind breastworks, in ambush opened fire upon those forming the column,

2. That neither the captain, whose name is stated, nor any one else was wounded after the parley.

3. That the captain could not have been wounded while at conference with the Mexican commander, because he had no talk with the latter; nor could he have been wounded from behind because the bullet passed through the upper part of his forehead.

4. That he did not notice any of the Americans and Apaches whom he saw at Teopar wearing uniforms.

5. That the officers of the column did not order the attack, nor did they have any idea that civilized people were with the Apaches.

6. That the Americans did not state that they had defeated hostile Indians, or that they held such as prisoners, together with their plunder.

7. Being questioned as to how he came to know what he has stated, he replied, that his knowledge is derived from his having been present at the occurrences mentioned.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself, the public agent, and the court assistants.

So we certify,

RUBIO.

JOSÉ M. RICO, *P. A.*

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

Immediately thereupon appeared MANUEL DE LA CRUZ, who, being duly sworn, promised to make truthful answer and statement, and said: That his name is as above written, he is 22 years of age, married, a native (*i. e.* of Indian descent), farmer, was born and resides at Ariciachic. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being questioned as to what he knows on the points in foregoing interrogatory, which was read to him, he stated:

1. That some wild Apaches were the ones who first opened fire.

2. That said captain was not wounded after the parley took place.

3. That the captain did not hold a conference with the Mexican commander, nor was he wounded from behind.

4. That he did not wear uniform during the combat.

5. That the Mexican officers did not order the attack.

6. That the Americans said nothing on the subject of this question.

7. Being questioned how he came to know what he has stated, he replied that it is derived from his having been one of the campaigners who were ordered to go out in pursuit of the Apaches and from his having been present at Teopar on that day.

Foregoing testimony having been read to him, he declared it correct, but did not sign because he cannot write. This was then signed by the public agent, the court assistants, and myself.

So we certify.

RUBIO.

JOSÉ M. RICO, *P. A.*

Witness: { M. IRIGOYEN.  
              { SALVADOR GONZALES.

On the same date it is certified that these proceedings being completed, they are delivered to Adjutant, Maj. Francisco J. Boza, their being twenty-four folios manuscript.

A true copy.

RUBIO.

EDUARDO GARAY,

*Chief Clerk.*

MEXICO, *April*, 1886.



## APPENDIX No. 3.

[Translation.]

*Investigation held by order of the supreme tribunal of justice of the State, to clear up the occurrences at "Teopar" on January 11, 1886.*

[SEAL. Republic of Mexico, supreme tribunal of justice of the State of Chihuahua, secretary's office, No. 304.]

In consequence of a communication from the executive of the State, who therein inserted a telegram addressed to him by the secretary of war, the supreme tribunal of justice, under date of the day before yesterday, ordered as follows:

"With transcript of foregoing communication, let an order be issued to the justices of the peace at Bravos and Guerrero and to the first alcalde (mayor) of Galeana, that they, without unnecessary delay and with scrupulous diligence, hold an investigation into the matters to which the transcribed note refers. The justice of the peace of Guerrero will proceed to the Canton Degollado for the purpose of carrying out this order. Let the executive be informed of this procedure, that he may issue the necessary orders for the requisite assistance for the journey to Degollado."

The communication to which the foregoing refers is as follows:

"The secretary of war, in a telegram of yesterday, says to this Government: To-day I say to the commander-in-chief of the second military zone: 'Providing an attorney-at-law of experience and ability as assistant, you will commission some intelligent person to proceed before the respective authority, for the purpose of holding an investigation, taking the testimony of witnesses, in a detailed manner, regarding the depredations that were committed on our frontier by an American force that lately fought at Teopar with the national guard of this State; examining at the same time into the causes leading to the collision, and into the other circumstances of which you have been heretofore advised. For this purpose you will instruct them to go with a proper escort to all the towns, plantations, and ranches at which the offences may have been committed. Upon conclusion of the investigation you will transmit the proceedings with all possible speed to this office.' I forward an official copy that you may be pleased to order another similar investigation, the proceedings to be forwarded to this office with all possible speed, because it is a matter of great importance to the Government of this Republic. I have the honor to insert the above for the information of the supreme tribunal, that you may be pleased in your discretion to order the investigation referred to in the cantons Bravos, Galeana, Degollado, and Guerrero, without delay."

The foregoing copy I transmit to you by superior orders and for your information and compliance therewith.

Liberty and constitution.

Chihuahua, February 8, 1886.

JOSÉ M. MARQUEZ,  
Secretary.

To the JUSTICE OF THE PEACE OF GUERRERO.

[Seal: State of Chihuahua, court of justice of the peace, District of Guerrero.]

Interrogatory prescribed by this court for the examination of the persons cognizant of the occurrences which happened at Teopar on January 11, last.

1. State your name, age, residence, business, &c.
2. Do you know what class of Indians were those who fought against the column which went out from here, Temosachic, during the encounter that took place at Teopar on said day?
3. If you know the cause of the combat, state it and give all the details.
4. Do you know to what reservation those Indians belonged?
5. Were they accompanied by civilized persons?
6. Do you know the name of the American officer who led them, and to what corps or force he belonged?
7. If you know that those Indians committed any depredations upon national territory, state so, giving all the details.
8. State, if you know, whether the Americans or Indians wore a dress or any insignia that could make them known as being in military service.
9. Give the source of your knowledge of what you have stated.

Canton Guerrero, February 13, 1886.

MANUEL RUBIO.

CANTON GUERRERO, *February 13, 1886.**Decree ordering the investigation referred to in foregoing order.*

Foregoing order having been received from superior authority let the investigation be made immediately, as directed; and for this purpose, with previous notification to the agent of the public ministry, let the persons who have any knowledge of the occurrence referred to and which is to be cleared up, be examined in conformity with the accompanying interrogatory drawn up by this court. Upon conclusion of the investigation at this place, let it be continued in the canton Degollado, as directed by superior authority.

The justice of the peace of this district has thus decreed, in the presence of the court assistants.

MANUEL RUBIO.  
M. IRIGOYEN.  
J. M. CASAVANTAS ROSAS.

Let the agent of the public minister be duly notified of preceding decree.

RUBIO.

Thereupon Jose Maria Rico, agent of the public ministry, being present, was notified of foregoing decree, which notification he acknowledged as received, and in witness thereof affixed his signature, together with myself and the witnesses. So we certify.

RUBIO.  
JOSE MA. RICO, *P. A.*  
M. IRIGOYEN.  
J. M. CASAVANTES ROSAS.

*Affidavit of Silviano Gonzales.*

Thereupon appeared SILVIANO GONZALES, for the purpose of giving testimony in conformity with the foregoing decree, he being in very high standing at this place, and his reliability being well known. He was duly sworn and promised to make truthful answer and relation; whereupon he stated: That his name is as above given, he is of age, widower, farmer, native of Teocaltiche (State of Jalisco) and resident of this place. He was then informed of the penalties for false testimony as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being questioned in accordance with preceding interrogatory, he said:

1. He has already answered above.
2. As he has heard, the Indians encountered at said point were part of them somewhat civilized, and the remainder what is commonly called "wild."
3. He knows that the cause of the fight was as follows: The (Mexican) column had arrived at the place mentioned, called Teopar, on the morning of January 11 last, where it saw a certain number of Indians in a hostile attitude upon the side of the mountain to their right. This party of Indians the officer second in command, Mauricio Corredor, tried to "corral," and was making a signal to the commander, Santa-Ana Perez, to begin operations with his force from his side. While this maneuver was going on, Commander Mauricio was first fired upon from some parapets to their left, at which points were entrenched in ambush 20 or 22 Americans, together with many Indians, with whom they began at once a hot fight lasting about an hour and a half, during which were killed Commander Mauricio, Juan de la Cruz, an officer of the scouts, and two other soldiers. Affiant also knows that after the combat had lasted about an hour and a half, a white flag was put forth from the place whence the Americans and the Apaches were firing, and they were called upon to hold a parley by one of the Americans who came towards the campaigners.
4. He does not know, because he did not hear, to what reservation the Indians belong nor from which they came.
5. He knows that the Americans and Apaches had with them a Mexican, who also took part in the ensuing parley.
6. He knows that the name of the person who was the American commander there was Crawford, because he has seen it so written in the newspapers that occupied themselves with that news, in which it was also said that he belonged to the command of General Crook.
7. That it must be supposed that the Indians who were encountered in the battle had committed depredations upon national territory, because at that place were found the animals (horses and donkeys) which they stole when they lately attacked the mining town Dolores.

8. They did not exhibit any insignia indicating that they were a military force.

9. That the source of his knowledge is as above indicated.

Thus he declared and affixed his signature, together with myself (the judge), the public agent, and the court witnesses.

So we certify.

RUBIO.

S. GONZALES,

JOSE MA. RICO, P. A.

M. IRIGOYEN.

J. M. CASAVANTAS ROSAS.

*Affidavit of Francisco J. Amaya.*

On the same date appeared FRANCISCO J. AMAYA, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written, he is 32 years of age, unmarried, a public employé, was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being questioned in accordance with foregoing interrogatory, he replied:

2. The Indians to which this question relates were "wild" and "tame" ones.

3. A (Mexican) column having gone out from this canton and that of Degollado against the hostile Indians, they were, after some days, already well into the Sierra, when the column was noticed by the enemy whom they were pursuing, the latter also having been seen by the campaigners. They being aware that it would be impossible to take the Indians by surprise, continued their pursuit openly (with open breasts), arriving at 8 o'clock a. m., January 11 last, at a place called "Teopar," where the Indians were encamped, and had even burned the grass, and had an ambuscade prepared for them. The firing then began in open daylight. The campaigners had arrived so far as to storm the positions of the enemy, from which position they had already dislodged them, when, after the death of their commander, the enemy began to wave white handkerchiefs as a sign that they wished a parley. The firing lasted about an hour and a half, during which were killed, on the side of the enemy, the aforementioned commander and four Indians besides, and, on the side of the campaigners, the commandant, Mauricio Corredor, Lieut. Juan de la Cruz, and two soldiers. Some men were also wounded on both sides. During the parley held with the American lieutenant, the latter told them that his force had known of the presence of the (Mexican) column since the night before. After this, Commander Santana Perez requested of them animals for the transport of their wounded, and having been given some in very bad condition, he would not accept them, stating that he should be given either good horses or he had rather take none. The lieutenant thereupon ordered some to be brought that were in very good condition.

4. He does not know anything in regard to this question.

5. The Indians were accompanied by twenty-two Americans, who were in civilian dress.

6. He knows nothing in regard to this question.

7. It is beyond doubt that those Indians were the same who have inflicted many injuries on the state, particularly at the mining town Dolores, which they recently attacked, murdering there a Frenchman and two Mexicans, besides taking away with them several animals, part of which the commander of the column recovered on the field of battle, and which he delivered partly at Dolores, and three donkeys at Yemopera, places where the owners of the same were found. Affiant repeats that those Indians committed said depredations, because otherwise it is inexplicable how said animals could be in their possession.

8. Neither the Americans nor the Indians wore any insignia to show that they were in the military service.

9. His knowledge of foregoing is derived from having heard the campaigners themselves say so.

Further deponent said not, and he signed, together with myself, the agent of the ministry, and the witnesses.

So we certify.

RUBIO.

JOSE MA. RICO, P. A.

FRANC'O J. AMAYA.

M. IRIGOYEN.

J. M. CASAVANTAS ROSAS.



*Testimony of José de la Luz Armenta.*

On the 15th of the same month appeared JOSÉ DE LA LUZ ARMENTA to give his testimony in accordance with foregoing decree, he being a person in high standing at this place and of well-known reliability. He was duly sworn and promised to make truthful answer and statement, and testified: That his name is as above given; he is 66 years of age; bachelor; miner; was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3, of the Penal Code. Being questioned in accordance with foregoing interrogatory, he stated:

1. Has already answered above.
2. That according to what he has learned, the Apaches were "wild" and "tame" ones, as they are commonly styled.
3. That the reason why the combat took place was following: The column that went out in pursuit of the hostiles, having marched several days and then following the trail of the Indians, on January 10 last suddenly descried an Apache about 1,000 yards distant, which circumstance caused them to take precautions that the latter should not see them. The Apache began to reconnoiter the ground, and arrived as far as the track made by the column in its march; noticing the fresh trail made by them he made off with great speed. Their commander at once gave orders that they should follow in the direction taken by the Indian, when upon reaching the summit of a mountain ridge they saw the group of the hostile Indians. They then remained there until nightfall, when they continued their march, arriving at said camping ground at about 8 a. m. on the following day, when, from an ambush prepared for them, a fire was immediately directed upon them, killing Commandant Mauricio Corredor, his son-in-law Juan de la Cruz, and Luz Estrada. The firing lasted about an hour and a half, during which time the enemy was dislodged from his position; and when their commander-in-chief was killed, the Americans who were with the Indians requested a parley, by waving a white rag, whereupon the column immediately suspended firing and entered into negotiations.
4. He has heard it commonly said that the reservation to which the Indians belonged was the San Carlos reservation.
5. Said Indians were accompanied by some Americans.
6. He knows nothing regarding this question.
7. That it must be supposed that those same Indians were the ones who shortly before attacked the mining town Dolores, where they killed a Frenchman and two Mexicans, and stole some animals and cattle; that such supposition is strongly founded in the fact that several of the stolen animals were found in their possession, among which were some donkeys, that were immediately taken from them by Commander Santa Ana Perez, who afterwards delivered the same to their owners; and some of the campaigners recognized others of the animals, the surrender of which was demanded of the officer who made the treaty and who promised to turn them over on the following day; instead of which they were found at daybreak to have been killed.
8. Neither the Americans nor the Apaches wore any military insignia.
9. He derived his knowledge from the fact that, as captain of the detachment of volunteers who went out from this city, he went to bring the wounded to Canton Degollado shortly after said occurrences had taken place, and that the wounded men, as well as the other campaigners, related to him all that had occurred just as he has stated it.

Foregoing testimony being read to him, he declared it correct, and signed the same, together with me, the public agent, and the court witnesses.

So we certify.

RUBIO.  
JOSÉ MA. RICO, P. A.  
J. LUZ ARMENTA.  
M. IRIGOYEN.  
R. CASAVANTES.

*Testimony of Roque Ramos.*

Immediately thereupon appeared ROQUE RAMOS, who, being duly sworn, promised to make truthful answer and statement, and testified: That his name is as above given; he is of age; married; farmer; was born and resides at Ariciachic, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in the Penal Code, chap. 7, title 4, book 3. Being examined according to foregoing interrogatory, he replied:

2. The Indians with whom they fought at Teopar numbered about 300, most of them being "wild," while some of them were somewhat civilized.

3. The reasons for the combat were as follows: The column which went out in pursuit of the Indians, having seen them on January 10 last, was on the march, when it was seen by a hostile Apache whom they could not capture. The commander of the campaigners, supposing that the Indian would naturally raise the alarm among his companions, gave orders to immediately follow the latter, which they did until they arrived at the point where they met the enemy. They arrived there on the 11th of the same month, at about 8 a. m., and found the grass had been burned and the Indians were securely in an ambush prepared by them. Then the undersigned, in company with his commander, Mauricio Corredor, and the troop that went out from this place, immediately attacked a group of Apaches who were about fifteen yards in front of them and were firing at them. They arrived at the foot of the parapets, stormed the same, and put to flight those who were sheltered behind the parapets. The commandant, Santa Ana Perez, operating from a different point, contributed to make said Apaches, who saw themselves driven from their positions and their commander and several other soldiers killed, wave some white rags as a signal that they demanded a parley, which demonstration was immediately acceded to, and the firing was suspended. The firing lasted about an hour and a half, during which time were killed on the side of their column, Commandant Mauricio, Juan de la Cruz, and two others, whose names he does not remember. Some were also wounded. On the other side they could only perceive killed (and these only because they were left behind the parapets which they carried by storm) their late commander, who was an American, and three Indians besides. While the parley was going on, they noticed among the many Apaches about twenty or twenty-two Americans, and one of the latter, who said he was a lieutenant, made said treaty, and gave the commander, Santa Ana Perez, a written paper, the contents of which the affiant does not know. He also gave Perez some mules for the transportation of the wounded. Finally, affiant states, they did not grant the parley on account of the superior numerical force of the enemy, but because they had already been several days in the Sierra, and were out of rations, and had at the same time very little ammunition left.

4. He knows nothing in regard to this.

5. The Apaches, as already stated, were accompanied by some twenty Americans, who did not show themselves until the negotiations had commenced.

6. He knows nothing regarding this.

7. He is almost sure that the Apaches with whom they fought were the same ones who shortly before attacked the mining town Dolores, killed there several persons, and at the same time stole the greater part of the animals and beef cattle at said place. This is to be believed, because Commandant Santa Anna took upon the battlefield some of the animals stolen from said mining town, which were returned to their owners. Several of the campaigners from Temosachic also recognized several of the animals, the return of which was demanded of the lieutenant who acted as chief commander, and who promised to deliver them, in place of doing which the animals were killed during the night, and the piece of the skin containing the brand was cut off of most of them.

8. Neither the Apaches nor the Americans wore any military dress nor any devices showing them to be in the military service.

9. His knowledge of above statements is derived from his having been one of the campaigners.

Foregoing testimony having been read to him, he declared it to be as given by him. He did not sign, because he cannot write. This was then signed by myself (the judge), together with the public agent and the court witnesses.

So we certify.

RUBIO.  
JOSÉ MA. RICO, P. A.  
M. IRIGOYEN.  
R. CASAVANTES.

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*Testimony of Estévan Vidal.*

Thereupon, on the same date, appeared ESTÉVAN VIDAL to give his testimony, who being duly sworn promised to make truthful answer and relation, and stated: That his name is as above given; he is of age, married, farmer, and a resident of Arica-chic, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being examined according to the foregoing interrogatory, he stated:

2. The Indians with whom they fought at Teopar were mostly wild Apaches.

3. The reason why the combat referred to in the question took place is as follows: The column having struck the trail of the Apaches, of whom they were in pursuit, they were following it, when suddenly they noticed an Apache who was apparently hunting; which circumstance caused the Commander Santa Ana Perez to recommend to the cam-

paiguers to use every caution so as not to allow said Apache to see them. But the Indian immediately afterwards saw the fresh track made by the column and began to run off rapidly. When the commander of the column saw this he felt certain that the Indian would give the alarm to his companions, and he decided to continue the march with all possible speed and without taking further precautions, so as to give no time for the enemy to take flight. This was done, and going a short distance further, when they came to the summit of a mountain ridge, they perceived a great number of Apaches, and about mid-day they noticed a signal fire where the Indians were; this demonstration made them comprehend that the enemy was already aware of the presence of the column, because said signal is only made by the Indians to notify their companions who are roaming about, of immediate danger menacing them. In view of this the campaigners tried with great eagerness to see if it would be possible to make the attack during the night, but they did not arrive at the indicated site until 8 a. m. of the following day, when the officer second in command, Mauricio Corredor, at the head of his company entered the center of a canyon, in which a certain number of Indians had already been seen in warlike attitude; the latter he tried to "corral," for which reason he signaled to the chief commander, Santa Ana Perez, to co-operate with his force. In effecting this maneuver, they were surprised by a heavy fire directed upon them by some Apaches behind parapets about fifteen yards distant, whom they fought in the open (with breasts uncovered) until they succeeded in making them abandon their positions, in which positions *Mauricio killed the commander of the enemies, who was an American*. These circumstances obliged the Apaches to wave some white rags as a sign that they wanted a *parley, which was granted by them because they were short of rations and ammunition*. During the firing which lasted about an hour and a half, there were some wounded and killed on both sides, among the latter on the side of the Mexican column being aforementioned Mauricio Corredor, who fought heroically; the lieutenant of the spies, (Trailers?) Juan de la Cruz, who was son-in-law of the former, and Luz Estrada; on the other side were also some killed and wounded, but as the enemies were in number of 300, they hid with great care some of them. The parley was immediately granted, and then were seen among the Apaches about 20 or 22 Americans, one of whom, calling himself a lieutenant, held the conference with the commander of the column, and it was he who gave them the animals upon which they carried their wounded, and he also gave Santa Perez a written paper, the contents of which are not known to affiant.

4. He knows nothing in regard to this question.

5. The Apaches, as already stated, were accompanied by several Americans, who were not noticed until the parley took place.

6. He does not know anything about it.

7. He believes that the Apaches with whom they fought committed the depredations upon the national territory, and he grounds his supposition in his having seen in their possession several animals that were recognized by many as having been recently stolen from the mining town Dolores when it was attacked by the savages. A demand was made upon said lieutenant for all the animals that were recognized, and he declared that he would deliver them on the following day. In place of this being done, they were found killed and skinned, so that neither color nor brand could be distinguished.

8. Neither the Apaches nor the Americans wore any distinctive mark to indicate their being in the military service.

9. His knowledge of above is derived from being cognizant of it, as he was one of the campaigners.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself, the public agent, and witnesses.

So we certify.

RUBIO.  
 JOSÉ MA. RICO, P. A.  
 M. IRIGOYEN.  
 R. CASAVANTES.

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#### *Testimony of Gabriel Casavantes.*

On the same date appeared GABRIEL CASAVANTES (the father) to give testimony, he being in high standing at this place, and a person of well-known integrity. He was duly sworn, and promised to make truthful answer and relation, and stated: His name is as above given; he is of age, married, farmer, and resides here.

He was then informed of the penalties for false testimony, as prescribed by the Penal Code, chap. 7, title 4, book 3. Being examined in accordance with foregoing interrogatory, which was read to him, he testified:

2. They were mostly Apaches.



3. The reason why said combat took place, was as follows: A column had gone out from this place and Degollado, for the purpose of pursuing the savages, in consequence of the depredations committed by them; it had entered the Sierra, and after marching several days, struck the trail of the enemy, following the same until they came within sight of the enemy; but this was not done without their being also aware that the savages were apprised of the presence of the column, because on the day before they caught sight of an Apache, who made off and very likely gave the alarm to the Indians. In consequence of this, they made a forced march all that night, and succeeded in attacking them, in broad day-light, in the positions where they were found sheltered by parapets.

4. It is commonly said that they came from San Carlos, and that they were "tame" and "wild" Apaches.

5. They were accompanied by Americans to the number of 18 to 23.

6. Regarding the name of the American commander, the campaigners did not impress it upon their minds, wherefore he cannot tell. Through newspapers he learns that his name is Crawford.

7. It must be supposed that those Apaches are the same who recently attacked the mining town Dolores, because Commander Santa Ana Perez took with him some donkeys, which he delivered to their owners at said mining town, and he has furthermore learned of several of the campaigners with whom he has spoken, that there were some other animals which they recognized, and which were demanded on the day following the action; but that at daybreak of the next day some of these had been killed, the skins containing the marks (brands) having been destroyed.

8. No uniforms or other signs were seen, to indicate that the Indians or Americans belonged to any organized corps.

9. That the source of his knowledge of above statements is derived from what has been narrated to him by several of the campaigners themselves, who had also told him that the reason why the firing was suspended after the combat had lasted about an hour and a half, was because the Americans had announced their presence by a white flag, or rather a rag that looked somewhat like white; and that thereupon the agreement was drawn up, report of which he supposes the commander of the column has made.

Foregoing testimony having been read to him, he declared it correct and signed the same, together with me (the judge), the agent of the public ministry, and witnesses.

So we certify.

RUBIO.

JOSE MA. RICO, P. A.

GAB'L. CASAV'S.

M. IRIGOYEN.

R. CASAVANTES.

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#### *Testimony of Felipe Ochoa.*

On the 16th of the same month appeared FELIPE OCHOA, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above given; he is twenty-nine years of age; married; farmer, and resides here. He was then informed of the penalties for false testimony, as prescribed by the Penal Code, chap. 7, title 4, book 3. Being examined, in accordance with foregoing interrogatory, he testified:

2. The Apaches numbered about three hundred, most of them being "wild" ones.

3. The reason why the combat took place was as follows: The column that went out in pursuit of the Apaches, after a march of several days, struck their trail and followed it a day and a half, when they were surprised on their way by an Apache, whom they were unable to catch, a circumstance that caused the commanders, Santa Ana Perez and Mauricio Corredor, to make a forced march, because they feared that said Indian would give the alarm to his companions, and which he undoubtedly did, because on that same day they saw a signal-fire, leaving them no doubt that their fears were realized, as such a signal is made by the savages only to make known to each other the approach of imminent danger. Then the column, laying aside all precautions, desirous only to prevent the savages from taking flight, which would make the sacrifices of the campaigners a matter of ridicule, marched all night, resting only a moment at break of day to plan the attack. They soon continued their march, and at about 8 a. m., January 11 last, they arrived at the point called "Teopar," where they found the Apaches already sheltered behind parapets and in attitude of offense, whereupon Commandant Mauricio, at the head of his natives (*i. e.*, of Indian descent), whose captain he was, with yells of "Viva Mexico" and "Viva Guerrero," threw themselves upon a group of Apaches, who, from the moment when the column arrived within gunshot, directed a hot fire upon them. But they were surprised by an am-

buscade which had been prepared on their left, which circumstance made said Mauricio direct his troop against the ambushade, the troop fighting with such intrepidity that the Apaches, confounded, abandoned the post which they were defending, leaving behind them one American killed, who was afterwards learned to have been the commander of the adversaries; when the latter was killed and a considerable number of the savages were in flight some, white handkerchiefs were waved as a signal that a parley was wanted, to which the commander of the column, Santa Ana Perez, immediately acceded. The firing lasted about an hour and a half, during which the brave Mauricio was killed, after he had stormed the enemies' positions, actually placing his breast against the muzzles of the rifles of the enemy, who in a cowardly manner fled. When the parley was granted they saw, with surprise, among the Apaches a Mexican and about twenty-three Americans. One of the latter, acting as commander and calling himself lieutenant, concluded the treaty, and declared that it had all been a mistake, giving the commander of our column a paper, the contents of which are not known to affiant. They remained two and a half days on the battlefield and did not leave until the Apaches and Americans had gone off.

4. He knows nothing about it.

5. As already stated, the Apaches were accompanied by a Mexican and about twenty-three Americans, all of them wearing civilian dress.

6. He knows nothing about it.

7. He supposes that they committed depredations upon national territory; he grounds his supposition on the fact that they found in the possession of the Indians several of the animals that shortly before had been stolen by the Indians at the mining town Dolores when they attacked the same and murdered several of its inhabitants. This presumption is the more probable, as the commander of the column took from them, when above-mentioned treaty had been concluded, some donkeys, which he delivered to their owners at said mining town.

8. Neither the Apaches nor the Americans nor the Mexican wore uniform or any insignia by which they might be presumed to belong to the military service.

9. His knowledge of foregoing statements is derived from the fact that he was one of the campaigners who were present at all the forementioned occurrences.

Foregoing testimony having been read to him he declared it correct, but did not sign, because he cannot write.

So we certify.

RUBIO.

JOSE MA. RICO, P. A.

M. IRIGOYEN.

R. CASAVANTES.

#### *Testimony of Ramon Chavarria.*

Immediately thereupon appeared RAMON CHAVARRIA, who, being duly sworn, promised to make truthful answer and relation. He was then informed of the penalties for false testimony, as prescribed by the Penal Code, chap. 7, title 4, book 3. Being examined in accordance with foregoing interrogatory, which was read to him, he stated:

1. His name is Ramon Chavarria; he is 36 years of age; bachelor; miner; was born and resides in this city.

2. The Indians with whom the column fought at Teopar were mostly "wild" Apaches, as they are generally called.

3. The reason why said combat took place was as follows: The column that went forth from this canton and Canton Degollado in pursuit of the savages who recently committed so many depredations within the State, and particularly at the mining town Dolores, at which latter place they committed some murders, had already marched several days and was well into the Sierras when the campaigners struck the enemy's trail and followed it until the 10th of the same January, on which day they were suddenly surprised by the appearance of an Apache, who, notwithstanding the precautions taken, saw the column. Although they could easily have given chase, their commander did not allow them to fire, fearing that the other Apaches might be apprised. He gave orders to try to catch the Indian in some other way, but it was found impossible to do so, because the latter, having espied the column, rapidly fled. This circumstance caused the commanders, Santa Ana Perez and Mauricio Corredor, to order the march to be hastened, because they believed said Indian would go and notify his other companions of what he had seen. This supposition was confirmed, because on the same day they noticed a signal-fire, a characteristic signal whereby a savage gives the alarm and calls together his people. This demonstration left the column in no doubt that the enemy was aware of their presence, and with the greatest effort they redoubled their speed, arriving at sunset at the summit of a mountain ridge, whence they could plainly

see (by aid of a spy-glass) at a distance of about 5 leagues (15 miles), at the farthest, the Apaches to the number of about three hundred in camp. They marched all that night, but on account of the rough road were unable to reach the place where the Indians were until about 8 a. m. of the following day, when, ascending a very steep slope (hill), they saw some Indians in a warlike attitude behind parapets, whom Commander Mauricio Corredor tried to "corral," for which purpose he made a signal to Commandant Santa Ana Perez that he in his turn should execute the necessary maneuver. At a short distance could be seen the herd of horses of the Indians, placed there as a means of tempting them, while hidden, in a great circle, were a great many Apaches in ambush. Firing was opened when they were ascending said hill, and the savages abandoned the first parapets of their ambuscade, which position remained in the possession of the troops from Temosachic, the troops from this canton pushing on ahead. The Indians having been driven from their positions, and an American, who was afterwards learned to have been their chief commander, having been killed, ran in haste to cross the river, which they did cross without taking off their moccasins or other clothes. While this demoralization was taking place several white rags were seen waving from between some rocks as a signal that a parley was requested; whereupon the commander of the column immediately ordered the firing to cease. The firing had lasted about an hour and a half, during which were killed, on the side of the campaigners above-mentioned, Mauricio Corredor, the lieutenant of the scouts, Juan de la Cruz, Maximiano Madrid, and Luz Estrada, and four soldiers wounded. On the other side, even though they also had several killed and wounded, it was not possible to state the number, because they hid them.

4. He does not know.

5. They were accompanied (according to the report of several campaigners who saw them) by about eighteen to twenty-three Americans.

6. He does not know.

7. It is beyond doubt that those Apaches were the same that attacked the mining town Dolores, because in their possession were found several of the animals that had been stolen at said point, of which Commander Santa Ana was able to recover three donkeys, which he delivered to Melquides Vargas. Several other animals were recognized and demanded of them, but instead of delivering the animals they killed them during the night. Among other cases, affiant can cite what happened to one of the campaigners from Temosachic, named Petronilo, who, having recognized a mare belonging to him, demanded the same of above-mentioned lieutenant; on the next day the mare was found killed. These acts, then, led to the belief that said Apaches were the ones who inflicted so much damage in the State.

8. During the day of the fight they did not wear uniform nor any device that might make them appear as being in the military service. On the next day the American who made the treaty, and who called himself a lieutenant, appeared in uniform.

9. The source of his knowledge of above-stated facts consists in his having been second sergeant of the troop from this canton, wherefore he has positive knowledge of the facts.

Foregoing testimony having been read to him, he declared it correct, and signed the same, together with myself, the public agent, and the court witnesses.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

M. IRIGOYEN.

RAMON CHAVARRIA.

#### *Testimony of Herculano Coz.*

On the same date appeared HERCULANO COZ, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above given; he is thirty-eight years of age; bachelor; day-laborer; was born at Pachera, and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being examined according to foregoing interrogatory, he stated:

2. The Indians with whom they fought at Teopar were mostly "wild" Apaches, with whom were some that were a little civilized, there being altogether about three hundred.

3. The reason why the combat took place was as follows: The column that went out in pursuit of the Apaches, after some days marching, discovered their trail and followed it two and a half days, when they succeeded in ascertaining at what place the Apaches were located. This happened on January 10, last, on which day the campaigners saw an Indian about 1,000 yards distant, whom they were unable to apprehend, which circumstance made the commanders, Mauricio Corredor and Santa Ana Perez, presume that the Indian whom they had just sighted would give the alarm



to his other companions, which in fact did happen, because on that very same day they noticed a signal fire, a characteristic signal of which the savages make use to warn each other of some imminent danger. Then the campaigners, without precaution of any kind, only desirous of reaching those whom they supposed to be their enemies, increased the speed of their march, and at about 8 a. m. arrived at the point where the Indians were entrenched. The latter opened fire upon the campaigners, who had no way of sheltering themselves, because the Apaches, besides holding a very advantageous position, had even burned the grass, which circumstance made the ambush more aggravating, as it showed that it was premeditated. Nevertheless, the Commandant Mauricio and his force fought with such intrepidity that they dislodged the Indians from behind their parapets (which were stormed) when the Indians took to flight, being so demoralized that they threw themselves into the river in their mocassins and clothes. When the other Indians saw this, they began to wave some white rags as a sign that they wished a parley. The commander of the column acceded to the request at once. The firing had lasted about an hour and a half, during which the campaigners lost the brave Mauricio and three other comrades, besides which four were also wounded, affiant being one of the latter (and I, the judge, certify that I see three wounds upon said deponent). It was an American, who said he was a lieutenant, that made the treaty, after which they noticed about 20 other Americans and one Mexican. Under the conditions agreed upon during the parley, Commander Santa Ana Perez was enabled to take from the Indians some donkeys which he delivered at the mining town Dolores; among the animals belonging to the Indians were also seen several animals that had been recently stolen from said mining town. A demand was made for the latter, but they were found next morning killed and some of them skinned. The campaigners remained on the field two days, when they left, after the departure of the Apaches and Americans.

4. He does not know.

5. As he has already stated, the Apaches were accompanied by a Mexican and about eighteen to twenty-three Americans.

6. He does not know.

7. It must be supposed that those Apaches were the same ones who attacked the mining town Dolores, murdering three persons and stealing animals, because, as already stated, these Apaches had many of said animals with them, although the campaigners were only able to recover the three donkeys, which at said mining town Dolores were returned to Melquiades Vargas.

8. Neither the Apaches nor the Americans wore uniform or any devices that might lead to the supposition that they were in the military service.

9. His knowledge of foregoing statements is derived from the fact that, as he has already stated, he was one of the campaigners.

Foregoing testimony having been read to him, he declared it correct, but he did not sign, because he cannot write. This was then signed by myself, the agent of the public ministry, and the court witnesses.

So we certify.

RUBIO.  
JOSÉ MA. RICO, P. A.  
M. IRIGOYEN.  
R. CASAVANTES.

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*Testimony of the witness Agapito Ramos.*

On the same date appeared AGAPITO RAMOS, who, being duly sworn, promised to make truthful answer and relation, and stated: His name is as above written; he is nineteen years of age; bachelor; day-laborer; was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed by the Penal Code, chapter 7, title 4, book 3. Being examined in accordance with foregoing interrogatory, he said:

2. The Apaches with whom they fought at Teopar were "wild" and "tame" ones, but the greater number were of the former.

3. A column had gone out from this canton and the canton Degollado to operate against the savages who had inflicted so many evils upon this State. After having marched several days, having suffered innumerable privations, they succeeded in striking the trail of the Apaches; they followed that for two and a half days, and were on the last day surprised by an Apache whom they were unable to catch and who gave notice to his companions. When the column on the morning of January 11 arrived at the point called Teopar they found that the grass or pasture had been completely burned off, and the Indians had taken positions where they were completely sheltered. The column immediately received the enemy's fire, and they had no other recourse than to engage openly in the combat, during which the Commandant

Mauricio Corredor and his troop conducted themselves with so much bravery that, storming their positions, the Indians in a cowardly manner fled from them, leaving behind them one man killed, an American, who was afterwards said to have been their commander. This circumstance caused the Apaches from various parts to wave white handkerchiefs or rags as a signal that they wished a parley. When this was observed by the commander of the column he *ordered the firing to cease, not through any fear, but because the volunteer force was very much short of provisions and ammunition.* The firing had lasted about an hour and a half, during which on both sides some were killed and wounded. After the treaty was concluded they noticed that about twenty-three Americans and one Mexican were with the Apaches.

4. He does not know.

5. As already stated, there were some Americans and one Mexican with the Apaches.

6. He can say nothing about it, as he does not know.

7. It is without doubt that those Apaches were the same ones who lately have committed so many depredations on national territory, and particularly at Dolores (canton Degollado), where they murdered a Frenchman and two Mexicans and took away with them several animals, part of which the commander of the column recovered on the battle-field and which he returned to the owner when he touched at said mining town Dolores. Affiant repeats that he believes that aforementioned Apaches were the authors of said murders and thefts, because in no other way can it be explained how said animals could be found in their possession.

8. Neither the Apaches nor the Americans wore any uniform or other device that would make them appear during the combat as being in the military service.

9. His knowledge of above is the result of his having been one of the campaigners, and he knows what he has stated, and the wound which he has (and I, the judge, certify that I have seen the same) he received at Teopar.

Foregoing testimony having been read to him, he declared it correct, but did not sign because he cannot write. This was then signed by myself (the judge), the public agent, and the court witnesses

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

M. IRIGOYEN.

R. CASAVANTES.

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*Testimony of the witness Francisco Araiza.*

On the 17th of the same month appeared before this court FRANCISCO ARAIZA, who, being duly sworn, promised to make a truthful answer and relation, and stated that his name is as above written; he is twenty years of age; bachelor; day laborer; was born at Pahnisachic, and resides in this city. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code now in force. Being examined in accordance with foregoing interrogatory, which was read to him, he stated:

1. He has already answered above.

2. The Indians whom the column fought at Teopar were mostly "wild" Apaches.

3. The reason why said combat took place was as follows: A column went out from this canton and canton Degollado, by order of the supreme government of the State, in pursuit of the savages that lately committed so many depredations, particularly at the mining town Dolores, where they committed some murders. After having marched several days, when these campaigners were well into the Sierra, they struck the enemy's trail and followed it until January 16, when they were suddenly surprised by the appearance of an Apache, who, notwithstanding the precautions taken by them to prevent it, saw them. They could have given chase, but the commander would not allow it, fearing that the other Apaches might hear the firing. Orders were given to try to capture the Indian by some other means, but that was found impossible, because said Indian immediately took to flight. This circumstance caused the commanders Santa Ana Perez and Mauricio Corredor to give orders that the speed of the march should be increased, because they naturally supposed that the Indian would go and make report to his companions. This supposition was soon confirmed, because on the same day they saw a signal fire, which is a characteristic signal by which the savages give the alarm and call together their people. In view of this plain demonstration, the campaigners were left in no doubt that their presence was known to the enemy. The march was hastened with the greatest effort, and at sunset they arrived at the summit of a ridge, whence they could plainly see (by aid of a spy glass) the Apaches, numbering about 300, at distance of 5 leagues (15 miles) at the farthest. They marched all that night, but the road was so broken that they were unable to arrive at the point where the Indians were until 7 or 8 a. m. of the following day. While they

were ascending a very steep slope they saw some of the Indians well intrenched and in a hostile attitude. Commander Mauricio Corredor intended to "corral" these, and signaled to Commandant Santa Ana Perez to operate accordingly. At a short distance from there was the herd of horses belonging to the Indians, which the latter had surely placed there to serve as a temptation, and near which they were in great number hidden in ambush. When the campaigners were ascending said hill the firing was commenced, and the Apaches abandoned the breastworks of their first ambuscade, which were occupied by the troops from Temosachie, the troops from this canton pressing forward. When the savages had been ejected from their positions, and after an American (who was afterwards known to have been their chief commander) had been killed, the Indians began to run away with great clamor, and crossed the river in their clothes, not even taking off their moccasins. While this demoralization was in progress it was observed that from between some rocks were exhibited some white rags or wrappers, as a signal for a parley; whereupon the commander of the column immediately ordered the firing to cease. The firing had lasted about an hour and a half, during which time on the side of the campaigners Commander Mauricio Corredor, lieutenant of scouts Juan de la Cruz, Maximiano Madrid, and Luz Estrada were killed, and the following four soldiers were wounded: Herculano Coz, Agapito Romero, Apolinar Zapien, and one other whose name he does not at this moment remember. Although there were some killed and wounded on the other side also; their number could not be learned, because they were hidden away.

4. He does not know.

5. They were accompanied by twenty-two or twenty-three Americans.

6. He does not know.

7. Those Apaches surely were the ones who attacked the mining town Dolores, because among their animals were found some of those that had been stolen from said mining town, and Commander Santa Ana recovered three asses which he delivered to Melquides Vargas. Several other animals were also recognized and demanded, but, instead of delivering them, the Indians during the night killed them, as happened in the case of one of the campaigners, named Petronilo, of Temosachie, who, having recognized a mare belonging to him, requested it be delivered to him, and on the next day found it had been killed. These acts gave sufficient grounds for the belief that said Apaches are the ones who caused so many evils to this State.

8. On the day of the combat they wore absolutely no dress or insignia by which they might have been known to belong to some organized army, but on the following day the American who made the treaty and who said that he was a lieutenant appeared in uniform.

9. His knowledge of above is derived from the fact that he was an eye-witness of the acts related, because he was part of said column.

Foregoing testimony having been read to him he declared it correct, but did not sign because he cannot write. This was then signed by myself (the judge) together with the public agent and the court witnesses.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.  
SALVADOR GONZALES.  
E. CASAVANTES.

#### *Testimony of the witness Apolinar Zapien.*

Thereupon appeared APOLINAR ZAPIEN, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is twenty-eight years of age; day laborer; bachelor; was born at Morelos, and resides in this city. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code now in force. Being questioned in accordance with foregoing interrogatory, which was read to him, he stated:

1. He has already answered above.

2. The Indians whom they fought were "wild" and "tame" Apaches.

3. The reason why it took place was as follows: The supreme Government of the State ordered that a column should go out from this canton and canton Degollado, in pursuit of the savage Indians, on account of the great depredations and harm caused for a long time past by them. The column struck the trail on the 10th of last month and followed it; the column, of which affiant formed a part, suddenly saw an Apache who was apparently hunting. The commander Santa Ana Perez gave orders that they should be prudent and not allow themselves to be seen, and directed at the same time that said Apache should be apprehended; but this was not possible to do because he took immediately to flight. When the commander saw this, he was certain that the Indian would go to inform his companions, and he gave immediately,



orders that the column should hasten its speed; by doing so, they managed to reach there on the following day at about 8 a. m. They found the pasture burned and the Indians in ambush, which doubtless had been prepared for them previously. Having arrived at the point indicated, they attacked a certain number of Apaches in their front that were firing upon them, and whom they succeeded in putting to flight. Santa Ana, operating from another direction, had succeeded in dislodging the Apaches and obtained as a triumph, that they exhibited some white rags as a signal for a parley. The firing must have lasted about an hour, during which time, on the side of the campaigners, Commandant Mauricio Corredor, Juan de la Cruz, and two other companions perished; and four men were wounded, of whom deponent was one, and for this reason he cannot with certainty state anything further except what he heard his companions say, on account of his subsequent illness.

5. Affiant knows that there were some Americans, without being able to specify their number, for the reason above stated.

6. He does not know.

7. He understands that the Apaches whom they fought are the same ones who attacked the mining town Dolores, because with these were found some of the animals that had been stolen from said mining town.

8. Neither the Apache nor the Americans wore any dress nor insignia to show that they were in the military service.

9. His knowledge of above facts is derived from his having been one of the campaigners, he being one of those that were wounded.

(I, the judge, certify to the last statement.)

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself (the judge), together with the public agent and the court witnesses.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.  
SALVADOR GONZALES.  
R. CASAVANTES.

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*Affidavit of the witness José M. Romero.*

Thereupon appeared the witness JOSÉ M. ROMERO, who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is twenty-two years of age; bachelor; day-laborer; was born and resides at Guadalupe, in this jurisdiction. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code now in force.

Being questioned in accordance with foregoing interrogatory, which was read to him, he stated:

1. He has already answered above.

2. The Indians whom the column fought at Teopar were nearly all what are commonly called "barbarous" (savages), the remainder being more or less civilized.

3. A column had gone out from this canton and canton Degollado in pursuit of said Indians, and on the 10th of last month they sighted an Apache at a short distance (whom they could perfectly recognize by aid of a spy-glass). The measures adopted to apprehend said Apache proving futile, the commanders, Santa Ana Perez and Mauricio Corredor, gave orders to increase the speed of the march, following the trail of the enemy, who was now already aware of their presence. They marched rapidly all that night, and on the following day, while ascending a very steep slope, they found some Apaches well intrenched and in a warlike attitude; owing to the skill of Commander Mauricio, they succeeded in dislodging the Indians, and the soldiers from Degollado remained here. Having pushed onward, at a short distance further they encountered the enemy in force, and fought about an hour and a half, until the combat stopped on account of some white cloths or handkerchiefs that were seen produced by the enemy from behind the rocks as a signal for a parley. As a result of said combat there were killed Commander Mauricio Corredor, Juan de la Cruz, and two other companions, and of the other side affiant, who was one of those that were wounded in the column, learned that the principal commander had been killed, as well as several others that they were unable to count, because the same had been hidden.

4. He does not know.

5. He does not know.

6. He did learn the name of the commander, but does not remember it.

7. He is almost sure that they are the same Indians who since a long time are committing thefts and depredations in the State. He believes this, because with them

were found the animals that were recently stolen from the mining town Dolores, which they would not give up when they were demanded by the owners, with the exception of some three asses, which were recovered by Commander Santa Ana Perez.

8. According to what he heard said by those who were nearer to the enemy there were among said Indians from twenty to twenty-three Americans, but that they did not wear any dress or insignia that could lead to the supposition that they belonged to the Army. On the day after the combat, however, one of them wore a military dress.

9. His knowledge of above statements is set forth in the same.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself (the judge), together with the public agent and the court witnesses.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

SALVADOR GONZALES.

R. CASAVANTES.

*Affidavit of the witness Jesus Campos.*

Thereupon appeared JESUS CAMPOS, who, being duly sworn, promised to make truthful answer in relation, and stated: His name is as above written; he is thirty-three years of age, married, day-laborer, was born and resides in this city. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3 of the Penal Code. Being questioned in accordance with foregoing interrogatory, which was read to him, he stated:

1. He has already answered above.

2. In his opinion the Indians whom the column fought at Teopar were "wild" or "barbarous," as they are commonly called.

3. Affiant being one of the soldiers that formed the column can truthfully say that on the 10th of last month they encountered an Indian who showed himself at a short distance, and whom it was not possible to capture because he immediately took to flight; the commander, Mauricio Corredor, did not permit them to fire upon the Indian, as he feared that the enemy would become aware of their presence. The campaigners immediately hastened their march, but could not arrive at said place until 8 or 9 a. m. on the following day. Then, while they were ascending a steep slope, they found that the Indians were sheltered behind breastworks, the herd of horses belonging to the latter being left alone and to one side as a means of tempting them. The firing was commenced by the enemy, whom they dislodged from behind the parapets and then pushed on, when a short distance further they found the whole band of Indians, who received them with a fire. The firing lasted about an hour and a half, during which, among his companions, the commander, Mauricio Corredor, and three others were killed, and some were also killed on the other side, while on both sides some were wounded.

4. He does not know.

5. He does not know.

6. He has heard the name of the American, but cannot pronounce it.

7. There can be no doubt that those Indians are the same ones who are causing so many injuries to the State, and that the most evident proof of that is that with them were found the animals that had been stolen from the mining town Dolores, and which they would not deliver to the owners who demanded them. In place of doing that, they killed some of those animals to eat them, taking the others away with them, except some asses, which Commandant Santa Ana Perez took away from them and which he delivered to their owner, Melquides Vargas, of Temosachic.

8. They wore no military insignia.

9. His knowledge, as above expressed, came from his having been an eye-witness to the facts, as he was one of the campaigners.

Foregoing testimony being read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself (the judge) and the court witnesses.

So we certify.

RUBIO.

JOSÉ MA. RICO, P. A.

SALVADOR GONZALES.

R. CASAVANTES.

*Affidavit of the witness Vicente Gandara.*

On the 20th of the same month appeared VICENTE GANDARA, who, being duly sworn, promised to make truthful answer and relation, and stated: That his name is as above written; he is forty-nine years of age, married, farmer, was born and resides in this city. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3, of the Penal Code now in force. Being questioned in accordance with foregoing interrogatory, which was read to him, he stated:

1. He has already answered above.
2. In his opinion all the Indians were "wild" ones.
3. The column on the 10th of last month had arrived at a point which he cannot name, but which is very near to the place called Teopar, when they struck the trail of the enemy whom they were pursuing; among others an Apache was seen whom they were unable to apprehend. They then hastened their march until the following day, about 8 a. m., when they encountered some Indians who were well entrenched and in hostile attitude, and who immediately commenced to open fire upon the campaigners. The latter were able to dislodge the Indians from their parapets, and continued onward to where the Indians were all united then; these continuing to fire upon them, to which they replied in a proper manner. The combat lasted about an hour and a half, until the other side began to put up some white handkerchiefs as a signal for a parley. As a result of the combat Commandant Mauricio Corredor, Juan de la Cruz, and two others were killed, and four men were wounded, while on the other side were also some killed and wounded, and among them an American who was said to have been their principal commander.
4. He does not know.
5. There were about eighteen to twenty-three Americans.
6. He does not know.
7. According to his understanding they are the same Indians who committed thefts at the mining town Dolores, because they had with them the animals that were taken from said mining town.
8. The aforementioned Americans did not carry any military insignia.
9. That his statements are grounded in reasons above set forth.

Foregoing testimony having been read to him, he declared it correct. This was then signed by myself (the judge), together with the public agent and the court witnesses.

So we certify.

RUBIO.

JOSE MA RICO, P. A.  
SALVADOR GONZALES.  
R. CASAVANTES.

At 12 o'clock m., on the 20th instant, it is hereby certified that the proceedings in this city, to which preceding order from higher authority refers, are concluded, except that the affidavits of some persons who are not at this place, have been omitted.

Record is made thereof and the signature, by sign-flourish (rubric), affixed, and the required report made to superior authority on this date.

(Signed by Rubric.\*)

A true copy:

EDUARDO GARAY,  
Chief Clerk.

MAY, 1886.

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APPENDIX No. 4.

[Translation.]

[Seal: State of Chihuahua, court of justice of the peace, district of Guerrero. Stamp 50 cents, canceled.]

*Proceedings of an investigation concerning the occurrences at Teopar, held at the instance of Colonel of Cavalry Pedro Artalejo, who was commissioned for that purpose by the general commanding the second military zone.*

*To the Justice of the Peace:*

I, Pedro Artalejo, colonel of cavalry, of the federal army, now being in this city, appear before you and make statement: To comply with the mandate entrusted to me by the general commanding the second military zone.

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\* In Spanish countries the custom survives, that officials, instead of signing their names to documents, may affix a certain flourish adopted by each to stand for his name, and which is called a "rubric," the same being legally recognized as his signature. This custom originated centuries ago, when many of the authorities were unable to write.—F. C. PRATZ, Translator.



I request that you, the judge, will be pleased to cause to be subpoenaed those citizens who took part in the encounter at Teopar, for the purpose that as eye-witnesses to the occurrences they may give testimony in accordance with the following interrogatory:

1. Is it certain that Lieutenant Maus was detained as a prisoner by the Mexican force?

2. Was, as asserted by Lieutenant Maus, the interpreter, Concepcion Aguirre, also detained as prisoner?

3. In case such detention is a fact, how long did it last, and under what conditions, or what treatment was accorded to the prisoner?

4. Were the mules that Lieutenant Maus delivered, after the detention to which he refers, some of those previously stolen by the Indians, or is there no doubt that they belonged to the Government of the United States?

5. Did the Mexican force exact that Lieutenant Maus should present papers to prove that he at that time belonged to the Regular Army of the United States; and if so, what was the result of such exaction?

Whensaid proceedings, with all the formalities required by law, shall have been concluded, the court will please to deliver to me the original papers, as the result of my commission, which latter I duly exhibit.

Submitted with assurance of respect, &c.

City of Guerrero, April 21, 1886.

PEDRO ARTALEJO, *Colonel*.

MEM.—The persons to whom I refer as to be examined are the following: Santana Perez, Ramon Chavarria, Apolinar Zapien, Fabian Martinez, Jesus Campos, Agapito Romero, Jesus Maria Romero, Felipe Ochoa, Herculano Coz.

City of Guerrero, April 22, 1886.

Received above at 11 a. m. of its date. Let the investigation solicited by the petitioner be held, in accordance with the orders received by this court from the supreme government of the State in its communication of the 19th instant. When the proceedings are concluded, let them be delivered to the petitioner, as he solicits. Hereof take notice; the justice of the peace of this district has so decreed, in presence of the court witnesses.

So we certify.

MANUEL RUBIO.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

On the same date appeared Col. Pedro Artalejo, who, being informed of foregoing decree, stated that he hears and is satisfied therewith. This was signed by myself and the court witnesses.

So we certify.

RUBIO.  
PEDRO ARTALEJO.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

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*Affidavit of the witness Apolinar Zapien.*

On the 24th of the same month appeared APOLINAR ZAPIEN to give his evidence, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is twenty-eight years of age, bachelor, day laborer; was born at Morelos and resides here. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being asked to state minutely what he knows in relation to foregoing interrogatory, which was read to him, he said:

1. That it is not true that Lieutenant Maus was detained as a prisoner by the Mexican forces.

2. Neither was he whose name was said to be Concepcion Aguirre.

3. Already answered by the preceding answers.

4. The mules given to Commandant Santana Perez were, in his opinion, property of the American Government, because no one there present recognized those animals, as they did many others, which latter were asked for; but instead of their being delivered, they were killed, and the parts of the skin containing the brands cut off.

5. Yes, they did demand of said Maus the documents to prove the authority with which he claimed to be invested; but he presented none, because he stated that he

had left them at a point the name of which affiant does not remember. The lieutenant then drew up a paper, which he gave to the commander of the campaigners, but the contents of which affiant does not know.

Being asked to state how he came to know what he has stated, he said that his knowledge is the result of his having been an eye-witness of the occurrences.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

*Affidavit of the witness Jesus Maria Romero.*

Immediately thereupon appeared JESUS MARIA ROMERO, who, being duly sworn, stated that his name is as above given; he is twenty-three years of age, bachelor, day laborer; was born and resides in this canton. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being asked to state what he knows relating to the interrogatory, which was read to him, he said:

1. It is certain that he who was said to be Lieutenant Maus, who was several times together with the commander of the column, Santana Perez, and who made the treaty, was not detained one moment.

2. This man, a Mexican (interpreter), was several times with the wounded, as well as the other campaigners, but neither was he detained or imprisoned.

3. As already stated, neither of the two was detained, and on the divers occasions when they were in the Mexican camp they were treated with the greatest consideration.

4. Some campaigners recognized several beasts that had been stolen by the Apaches from the canton Degollado, and these were demanded of said lieutenant to carry the wounded; but instead of their being delivered, they were killed during the night, said lieutenant then giving for the purpose mentioned some mules which he said belonged to the American Army.

5. Yes, a demand was made upon Lieutenant Maus to present the documents that would prove him to be an officer of the Army of the United States, but he could not present any, stating that he did not carry them with him.

Being asked how he came to know the foregoing, he said that he was one of the campaigners that had the encounter at Teopar, and there he witnessed what he has related.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

*Affidavit of the witness Herculano Coz.*

On the 25th of the same month of April appeared HERCULANO COZ, who, being duly sworn, stated that his name is as above related; he is of age, bachelor, day laborer; was born and resides in this city. He was then informed of the penalties for false testimony, as prescribed in chapter 7, title 4, book 3 of the Penal Code. Being asked to relate minutely what he knows in relation to preceding interrogatory, which was read to him, he stated:

1. He learned that Lieutenant Maus was detained about half an hour, pending the delivery of some mules offered by him for carrying the wounded, in place of animals recognized by several campaigners having been stolen by the Apaches from Degollado, and which, when they were demanded of said lieutenant for carrying the wounded, were killed, the part of the skin showing the brand having been removed from several of them.

2. As said lieutenant did not speak Spanish, and was always accompanied by the interpreter, Concepcion Aguirre, the latter was also detained with him during the time mentioned in the foregoing answer.

3. That the time is already stated during which the detention lasted at the longest, and during it they were treated with all possible consideration.

4. He knew that said mules belonged to the United States, because the animals stolen by the Apaches, as already stated, were killed by the latter when a demand for them was made, Commander Santana Perez having succeeded only in obtaining some donkeys, which he left with the owners in the mining town Dolores, whence they had been stolen.

5. Yes, documents were demanded of said lieutenant to accredit him and the other Americans and Apaches as being a regular force of the United States; but as he could not show any, he wrote out a paper, which he handed to Commander Santana Perez, but of the contents of this the affiant knows nothing.

Being questioned as to the source of his knowledge as above set forth, he said that he was told what he has stated in answer to the first three questions, and that he was a witness to what is contained in the other two answers.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was then signed by myself and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

*Affidavit of the witness Ramon Chavarria.*

Continuing, there appeared RAMON CHAVARRIA in obedience to subpoena, who being duly sworn promised to speak the truth, and stated, that his name is Ramon Chavarria; he is thirty-six years of age, bachelor, miner, was born and resides at this place. He was then informed of the penalties for false testimony as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being questioned in accordance with the interrogatory, which was read to him, he said:

1. Lieutenant Maus was detained about half an hour, he having promised them some American animals for the transport of the wounded.

2. For the same period said interpreter was with Maus, because the latter could not speak Spanish; but no one detained him.

3. The first part of this question affiant has already answered; as for the second part, he remembers that Maus was treated with utmost civility; he only heard from others that Maus was detained, but saw no one guarding the latter, nor any demonstration to indicate that the latter was a prisoner, and the latter took his leave in a very friendly manner after delivering the mules for which he had sent to transport the wounded.

4. The animals stolen by the Indians were killed by the same and by the Americans accompanying them; for which reason Maus had to give some mules which he said belonged to the American army, and which none of the campaigners knew.

5. Commander Santana Perez requested of said lieutenant the papers to prove that he and the persons accompanying him formed part of the army of the United States; but the latter presented none, excusing himself by stating that they were with the packtrain in the rear; and although they remained together three days, he never did furnish the proof, only giving said Commander Perez a document attested by him.

Being questioned how he came to know the foregoing he stated that his statements are grounded in the fact that he was one of the participants in the occurrence at Teopar.

Foregoing testimony having been read to him he declared it correct and signed the same, together with myself and the court witnesses.

So we certify.

RUBIO.  
RAMON CHAVARRIA.  
M. IRIGOYEN.  
REFUGIO LECHUYA.

*Affidavit of the witness Felipe Ochoa.*

On the 26th of the same month appeared FELIPE OCHOA, who being duly sworn promised to speak the truth, and stated that his name is as above given; he is thirty years of age, married, day laborer; was born and resides at this place. He was then informed of the penalties for false testimony as prescribed in chapter 7, title 4, book



3, of the Penal Code. Being asked to state minutely what he knows in relation to the interrogatory, which was read to him, he said:

1. That is true that Lieutenant Maus was detained for following reason: He had with him several of the animals stolen by the Apaches, and these were demanded of him; he promised to deliver them that the wounded might be transported upon them, but instead of fulfilling such promise they killed the animals during the night, removing from some of them the portion of the skin that contained the brands. For that reason the lieutenant offered to give some mules in good condition, and he was therefore detained until the arrival of said mules, because it was feared that, as the people accompanying him were about to go off, he would go without fulfilling his promise, breaking his word as he had done after promising to deliver the stolen animals for which a demand had been made.

2. This man was not detained but remained voluntarily in company of Maus, because, as that gentleman cannot speak Spanish, the man was always with him.

3. The detention lasted but some minutes; not a quarter of an hour had passed when the mules, which he who called himself lieutenant had ordered brought were delivered and he as well as the interpreter were treated with all manner of consideration, so that when they took their leave they did so in a friendly manner.

4. Affiant supposes that the mules delivered by Maus belonged to the United States, because no one there knew the animals.

5. Yes, a demand was made for him to prove the legality of the character which he claimed to represent, but he did not furnish the proof, stating that he did not carry with him the respective documents.

Being questioned as to how he came to know what he has stated, he said that his knowledge is founded on the facts related.

Foregoing statement having been read to him he declared it correct, but did not sign because he cannot write. This was then signed by myself, (the judge), and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
VIDAL P. Y PALLARES.

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*Affidavit of the witness Jesus Campos.*

On the same date appeared JESUS CAMPOS to give his testimony, who, being duly sworn, promised to make truthful answer and relation, and stated that his name is as above written; he is thirty-three years of age, married, day laborer, was born at Jesus Maria, and resides at this place. He was thereupon informed of the penalties for false testimony as prescribed by the Penal Code in chapter 7, title 4, book 3. Being questioned in conformity with the interrogatory, which was read to him, he stated:

1. Lieutenant Maus having promised to give up several animals that had been stolen by the Apaches from canton Degollado, the Indians or the Americans killed the animals, by reason of which said lieutenant delivered only some donkeys, that were returned to the owners of the same. He also promised to give them some mules for the transportation of their wounded, and he remained with the Mexican commander until the said mules were delivered.

2. If the foregoing may be called a "detention," then the interpreter, Concepcion Aguirre, was also detained, as the latter always accompanied said lieutenant, who could not speak any Spanish.

3. It did not exceed half an hour, during which time, as on several other occasions when he had been with them, he was treated with all civility.

4. Affiant supposes that they were American (animals), as none of the campaigners knew them.

5. Although a demand was made upon said lieutenant for the documents to prove that he belonged to the Army of the United States, he only presented a bill or invoice of a Sonora merchant for goods for the people accompanying him, which did not specify whence they came.

Being questioned as to how he came to know what he has related, he replied that his knowledge is founded on the facts related, to which he was witness.

Foregoing testimony having been read to him, he declared it correct, but did not sign because he cannot write. This was then signed by myself and the court witnesses.

So we certify

RUBIO.  
M. IRIGOYEN.  
VIDAL P. Y PALLARES.

*Affidavit of the witness Fabian Martinez.*

On the 26th of April, 1886, appeared FABIAN MARTINEZ, who being duly sworn, promised to speak the truth, and stated: That his name is as above given; he is thirty-five years of age, married, day laborer; was born in canton Rayon, and resides at this place. He was then informed of the penalties for false testimony as prescribed in chapter 7, title 4, book 3, of the Penal Code. Being asked to state minutely what he knows in relation to the interrogatory, which was read to him, he replied:

1. Lieutenant Maus not having complied with his offer to turn over the animals that had been requested of him by Commander Santana Perez, but on the contrary they having been killed, he afterwards offered to give others in their place; and as it was feared that he might not fulfill his promise, he was detained till the delivery of said mules.

2. This man was not in any way detained. He only remained in company of Lieutenant Maus as his interpreter.

3. At the most, it was but half an hour during which said lieutenant was detained, and during this time he was treated with great consideration.

4. It is probable that they belonged to the Government of the United States, as they were not known to any of the campaigners.

5. A demand was made upon him for documents to prove that they belonged to the Army of the United States; but all the proof that he did present was a paper which he drew up himself and which he handed to Commander Santana Perez.

Affiant being asked how he came to know what he has stated, replied that he was eye-witness of the facts related.

Foregoing testimony having been read to him, he declared it correct, but being unable to write he did not sign, as did I and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
VIDAL P. Y PALLARES.

*Affidavit of the witness Agapito Romero.*

On the same date the undersigned judge and the witnesses went to the residence of AGAPITO ROMERO, who is sick, and who was duly sworn and promised to make truthful answer and relation. Affiant then stated his name to be as above; he is — years of age; bachelor; day-laborer; was born and resides at this place. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3 of the Penal Code. Being asked to state clearly what he knows in relation to foregoing interrogatory, which was read to him, he said:

1. It is true that Lieutenant Maus was detained, but not as a prisoner.

2. Said Aguirre was not detained; it is true he accompanied said lieutenant during the moments of his detention, because the latter could not speak Spanish, and was always accompanied by Aguirre in capacity of interpreter.

3. The detention did not last half an hour, because said lieutenant remained in absolute liberty so soon as he had delivered the mules which he had promised for the transportation of the wounded as a compensation for the Mexican animals that had been demanded of him and which he was under obligation to deliver, but which were killed during the night, with the exception of some donkeys that Commander Santana Perez was able to obtain.

4. The animals given by aforesaid lieutenant were, in affiant's opinion, American, because all the stolen Mexican animals that had been demanded were, as already stated, killed, the part containing the brand having been cut off from many of them.

5. Although a demand was made upon him for the documents accrediting him to the military service of North America, he presented none, stating he did not carry them with him.

Being asked for the source of his knowledge, he replied that it was derived from the fact of his having been present at the occurrence; and he added that during the short detention of Maus the same was treated with all politeness.

Foregoing testimony having been read to him, he declared it correct, but did not sign, because he cannot write. This was signed by myself and the court witnesses.

So we certify.

RUBIO.  
M. IRIGOYEN.  
VIDAL P. Y PALLARES.

On the 2d of May, 1886, it was possible to obtain the presence in court of SANTANA PEREZ, and as the completion of these proceedings is urgent, he was, although on a holiday, duly sworn to make truthful answer and relation. The witness then stated, That his name is as above given; he is forty-five years of age, married, farmer, was

born and resides in Canton Degollado. He was then informed of the penalties for false testimony, as prescribed in chap. 7, title 4, book 3 of the Penal Code. Being questioned to state minutely what he knows in relation to preceding interrogatory, which was read to him, he said :

1. It is not true that said lieutenant was detained or a prisoner. The same was at various times in conference with affiant, both being the chief commanders of the forces which they respectively commanded ; but he was not detained a single moment, and they were conversing in perfect harmony till the moment when the mules upon which he carried his wounded were delivered. After that occasion they did not see each other again, as said lieutenant went to his camp, while affiant remained in his own camp, and both broke camp about twelve or fourteen hours after this last conference.

2. Neither was said interpreter detained as a prisoner; the only occurrence was as follows: Affiant and some others of his companions recognized several animals that had been stolen by the Apaches from Degollado ; a demand for these was made upon Lieutenant Maus, who promised to deliver them, that the wounded might be transported upon them, for which purpose they were wanted ; but far from delivering them, the animals were killed during the night by the other side, and the part of the skin containing the brand was removed. Thereupon said lieutenant bound himself to give some of their own animals ; but as he was about to go off without doing so, affiant sent for Concepcion Aguirre, and requested him to tell the lieutenant not to be ungrateful and to give the promised animals. Maus was then called, and he ordered the mules referred to to be brought ; after which they took leave of each other, as already stated, in a friendly manner, deferring the breaking of camp till the following day.

3. Already answered by foregoing.

4. Said mules were not part of those stolen at Temosachic ; but neither did they belong to the United States Army, because they did not have the brand by which they generally mark their herds.

5. Yes ; documents were demanded, and he promised to present them, by reason of which they lost three days waiting their arrival from Nacori, from which place he said he had ordered them brought ; but they never did arrive, nor did he prove in any other manner that he and his people belonged to the North American Army. The only papers which he did give were those written with lead pencils upon leaves torn from his pocket-book, stating, in the first, that through a mistake the two columns had an encounter with each other ; in the second, that he would send to Nacori for the documents to prove that they were part of the United States Army ; and in the third, taking leave of him (written from his own camp). Said papers are in the possession of the governor of the state, to whom personally affiant handed them. He remembers that the political chief of this place made a copy of the first paper.

Being asked to state how he came to know what he has stated, he answered that his knowledge was derived from his presence at the occurrence, where he was chief commander of the column that went out in pursuit of the savages by the direction of the governor of the State from this canton and Canton Degollado. Affiant added to his foregoing statements, that the presence of his column was already known on the day before the combat at Teopar, because he and his other companions knew that scouts were observing the column ; they also took notice of the fact that the pasture had been burned at the place where they were surprised ; they observed the parapets behind which they were posted ; the request of Lieutenant Maus for a parley after his captain had been killed and when the Indians, jumping into the river with moccasins and all, abandoned the Americans who accompanied them ; the total lack of display of any military insignia during the firing. Affiant states that after the combat said lieutenant put on a military jacket, but wore no cap or other device. Lastly, they observed the animals stolen from the mining-town Dolores, of which they were able to recover three donkeys that at said place were delivered to Melquiades Vargas, who owned two of them.

This testimony having been read to him, he declared it correct, and affixed his signature, together with myself and the court witnesses.

So we certify.

RUBIO.  
SANTANA PEREZ.  
PEDRO DOMINGUEZ.  
M. IRIGOYEN.

On the same date these proceedings, consisting of nine folios manuscript, being concluded, they were delivered to the colonel of cavalry, Pedro Artalejo.

(Signed by rubric of Rubio.)

A true copy.

EDUARDO GARAY,  
Chief Clerk.

MEXICO, May 19, 1886.



No. 308.

*Mr. Morgan to Mr. Bayard.*

No. 231.]

LEGATION OF THE UNITED STATES,  
*Mexico, May 26, 1886. (Received June 3.)*

SIR: Referring to my No. 230 of yesterday, relative to the attack made by Mexican soldiers upon United States troops near the Haros River, Sonora, in which Capt. Emmet Crawford lost his life, I have the honor to inclose herewith copy of my note to Mr. Mariscal acknowledging receipt of his, of 21st ultimo and of 19th instant, and to say that I deemed this subject of such importance that I sent you yesterday the following telegram:

To-night I send a report of Mexican Government relative to killing of Crawford.

In this connection I beg to acknowledge receipt of your No. 183 of 15th instant, with inclosures, which have been carefully read and filed with the other papers in this case.

I am, sir, &c.,

J. L. MORGAN.

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[Inclosure in No. 231.]

*Mr. Morgan to Mr. Mariscal.*LEGATION OF THE UNITED STATES,  
*Mexico, May 26, 1886.*

SIR: Immediately upon receipt of your excellency's highly esteemed note of 21st ultimo, relative to the attack made by Mexican soldiers upon United States troops near the Haros River, Sonora, in which Capt. Emmet Crawford lost his life, I forwarded a copy and translation thereof to the Secretary of State at Washington.

A copy of your excellency's further note upon this subject, with four accompaniments of 19th instant, received on the evening of the 21st, was transmitted to my own Government in last night's mail.

I avail, &c.,

J. L. MORGAN.

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No. 309.

*Mr. Morgan to Mr. Bagard.*

No. 241.]

LEGATION OF THE UNITED STATES,  
*Mexico, June 10, 1886. (Received June 19.)*

SIR: I have the honor to transmit herewith inclosed copy and translation of the Mexican law of foreigners and naturalization, published in the *Diario Oficial* of 7th instant.

From article 39 you will perceive that the laws which established the matriculation of foreigners have been repealed. Still, these certificates of matriculation may be issued.

The inclosed law does not embrace all the rights and obligations of foreigners, as will be seen by reference to the "*Derecho Internacional Mexicano, Tercera Parte,*" from page 369 to 421.

I am, sir, &c.,

J. L. MORGAN.

[Inclosure in Mr. Morgan's No. 241.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS, CHANCELLOR'S BUREAU,  
*Mexico, May 28, 1886.*

Porfirio Diaz, President of the United Mexican States, to its inhabitants: Be it known that the Congress of the Union has decreed the following:

The Congress of the United Mexican States decrees the following

LAW CONCERNING FOREIGNERS AND NATURALIZATION.

CHAPTER I.—OF MEXICANS AND FOREIGNERS.

ARTICLE I. Mexicans are:

(1) Those born on national territory, of a father Mexican by birth or by naturalization.

(2) Those born on national territory, of a Mexican mother and a father not recognized as such by the laws of the Republic. Those born of unknown parents or of unknown nationality shall be likewise [so] considered.

(3) Those born outside the Republic, of a Mexican father who has not lost his nationality. If this should have occurred, those children shall be reported as foreigners; having the option, though, of becoming Mexicans within one year from the day they attain twenty-one years, provided, if they live abroad, they make the due declaration before diplomatic or consular agents of the Republic; or, if they reside in national territory, before the department of foreign affairs.

Should the children referred to in the preceding paragraph reside in national territory, and should they, on arriving at maturity, accept any public position, or serve in the army, navy, or the national guard, they shall be considered Mexicans in virtue thereof, without the need of further formalities.

(4) Those born outside the Republic, of a Mexican mother and unknown father, provided the former has not lost her nationality, according to the provisions of this law. If the mother should become naturalized in a foreign country her children shall be foreigners; but they shall have the option of becoming Mexicans under the terms and conditions of the preceding paragraph.

(5) Those Mexicans who having under the provisions of this law lost their national character and who may have recovered it by complying with the due requisites, according to the different cases treated of.

(6) The foreign woman who marries a Mexican, and who, even during her widowhood, retains her Mexican nationality.

(7) Those born outside the Republic, but who, being here in the year 1821, and having taken the oath of independence, have continued to reside in national territory and have not changed their nationality.

(8) Those Mexicans who, established in the territory ceded to the United States by the treaties of February 2, 1848, and of November 30, 1853, complied with the requirements of said treaties to preserve their Mexican nationality. Mexicans who continue to reside in territory belonging to Guatemala are in the same category, also citizens of that Republic remaining in territory belonging to Mexico, as specified by the treaty of September 27, 1882, provided said citizens comply with the stipulations of the fifth article of that treaty.

(9) Foreigners who may become naturalized under the present law.

(10) Foreigners who acquire real estate in the Republic, provided they do not specify their intention of preserving their nationality—as soon as the property is acquired the foreigner shall state to the notary, or the respective receiver, whether or not he desires to obtain Mexican nationality, as granted under paragraph 3 of the thirtieth article of the constitution,\* and the decision of the foreigner shall appear in the body of the document.

If he select Mexican nationality, or fail at the time to designate any preference, he may still within a year resort to the department of foreign affairs to comply with the requirements of article 19, and be considered a Mexican.

(11) Foreigners with children, born in Mexico, and who do not prefer to retain their character as foreigners. On registering the birth of the child, the father shall indicate his intention in this particular to the judge of the civil register, and the same shall be recorded in the body of the document. If he should select Mexican nationality, or fail to state his intention in that particular, he will still be able to resort to the department of foreign affairs within a year to comply with requirements of the nineteenth article and be considered a Mexican.

\* “(3) Foreigners who acquire real estate in the Republic or have children born in Mexico, provided they have not declared their intention to preserve their nationality.” [Note by the Department.]

(12) Those foreigners who officially serve the Government or accept therefrom titles or public offices, provided that within one year from the date of acceptance of those titles or public offices which should be conferred upon them or from the commencement of their official service to the Mexican Government, they resort to the department of foreign affairs to comply with the requirements of the nineteenth article, and be considered as Mexicans.

ART. 2. Foreigners are:

(1) Those born outside of national territory, subjects of foreign Governments, and who have not become naturalized in Mexico.

(2) The children of a foreign father, or foreign mother and unknown father, born on national territory, until they reach the age when, according to the law on nationality of the father or mother respectively, they cease to be minors. If for one year after they arrive at maturity they do not file with the local authorities of the place of their residence their intention of retaining the nationality of their parents, they shall be considered Mexicans.

(3) Those absent from the Republic without leave or license from the Government, unless on account of studies, or for public interests, or commercial or industrial pursuits, or in the exercise of a profession, who allow ten years to elapse without asking for a prorogation of their term of absence. This prorogation shall not exceed five years on each application, and after the first prorogation is granted, good and sufficient reasons must be given before another can be obtained.

(4) Mexican women who marry foreigners, and who preserve the character of foreigners even during their widowhood, the marriage being dissolved, the native woman can recover her nationality, provided that, in addition to residing in this Republic, she make due declaration before the civil judge nearest her residence of her intention to recover that nationality.

The Mexican woman who, under the laws of her husband's country, does not assume his nationality by her marriage shall retain her own.

The change of the husband's nationality after marriage implies a similar change in that of the wife and the minor children subject to the father's authority, provided they live in the country of naturalization of the husband or father, respectively, with the sole exception stated in the preceding clause of this paragraph.

(5) Mexicans naturalized in other countries.

(6) Those who, without leave of Congress, officially serve foreign governments in any political, administrative, judicial, military, or diplomatic capacity.

(7) Those who, without previous leave of the Federal Congress, accept foreign decorations, titles, or offices, save in the case of literary, scientific, or humanitarian titles, all of which they are free to accept.

ART. 3. In order to determine the place of birth in the above cases, it is hereby declared that national vessels, without any distinction, are part of the national territory, and that those born on board of them are considered as being born within the Republic.

ART. 4. In virtue of the right of extraterritoriality enjoyed by diplomatic agents the children of ministers and employes of the legations of the Republic will never be regarded as being born outside the Republic.

ART. 5. The nationality of legally responsible persons or beings is regulated by the law which authorizes the same. In consequence, all those so constituted, according to the laws of the Republic, shall be Mexicans, if, in addition, they make it their legal residence.

Legally responsible foreigners enjoy in Mexico the rights guaranteed by the laws of their country in so far as these do not conflict with the laws of the nation.

## CHAPTER II.—OF EXPATRIATION.

ART. 6. The Mexican Republic recognizes the right of expatriation as being natural and inherent in every man, and necessary to the enjoyment of individual liberty. In consequence, while it allows its inhabitants to exercise this right, so they can leave its territory and settle in a foreign land, it also protects the right of foreigners of all nationalities who seek to settle within its jurisdiction. The Republic, therefore, receives subjects or citizens of other states, and naturalizes them under the provisions of this law.

ART. 7. Expatriation and consequent naturalization obtained in a foreign land do not exempt the criminal from extradition, trial, or punishment to which he may be subject under the provisions of treaties, international law, and the law of the land.

ART. 8. Citizens naturalized in Mexico, even if abroad, have a right to equal protection on the part of the Government of the Republic with native-born Mexicans in their persons or their property. This does not, in case they return to their native land, exempt them from responsibilities incurred before the naturalization, under the laws of that land.



ART. 9. The Mexican Government shall, through the channel of international law, protect Mexican citizens when abroad. The President, as he may deem necessary, shall make use of these means, provided they do not constitute acts of hostility. But if diplomatic intervention be not sufficient, and such measures prove futile, or if the offenses against the Mexican nation be serious enough to demand severer measures, the President shall notify Congress thereof, and furnish the respective documents for constitutional effect.

ART. 10. The naturalization of a foreigner becomes nullified by his residence in his own country for two years, unless he be absent on an official commission for the Mexican Government, or with the permission of the same.

### CHAPTER III.—OF NATURALIZATION.

ART. 11. Foreigners who comply with the requisites of this law may be naturalized in the Republic.

ART. 12. At least six months before applying for naturalization papers the applicant should state in writing, before the municipal council of his place of residence, his intention of becoming a Mexican citizen and of resigning his foreign nationality. The municipal authorities shall give him a certified copy of his application and preserve the original in their archives.

ART. 13. When the said six months shall have passed, and the foreigner has resided two years in the Republic, he may apply to the Federal Government for his certificate of naturalization. To obtain it he should first present himself to the district judge in whose jurisdiction he resides, and furnish proof of the following :

(1) That according to the law of his land, he enjoys all civil rights, being of age.  
(2) That he has resided in the Republic at least two years, and has observed good conduct.

(3) That, for his living, he has some business, industry, profession, or revenue.

ART. 14. The applicant shall add to the petition presented to the district judge a copy of the certificate issued by the municipal authorities, as specified in article 12. He shall also make an express renouncement of all submission, obedience, or fidelity to foreign Governments, and especially to that of which he had been a subject, disclaiming also all protection outside of the laws and authority of Mexico, and all rights which, by treaties or international law, are guaranteed to foreigners.

ART. 15. The district judge, prior to the ratification made by the applicant, in the presence of the district attorney, shall take the deposition of witnesses on the points referred to by article 13, and, if he deem it necessary, shall obtain the report which the municipal council should furnish, as promised in article 12.

The judge shall also admit any other proofs presented by the interested party touching the points indicated in article 13, and shall consult the judgment of the district attorney.

ART. 16. In case the decision of the judge be favorable to the applicant, he shall transmit the legal documents, in original, to the department of foreign affairs, applying for the certificate of naturalization, provided there be no legal motive to impede the same. Through the said judge the interested party shall transmit a petition to that department asking for the certificate of naturalization, ratify his renouncement of the rights of a foreigner, and protest adherence, obedience, and submission to the laws and authorities of the Republic.

ART. 17. Foreigners serving in the national merchant marine may become naturalized, one year of service on board sufficing instead of two years, as otherwise required under article 13. The district judge of any of the ports touched by the ship is amply authorized to negotiate this matter, and, likewise, any of the municipal authorities of those ports may receive the petitions treated in article 12.

ART. 18. Foreigners naturalized under this law are not included in the provisions of articles 12, 13, 14, 15, and 16, neither are they who have the option of Mexican nationality. In consequence, children of a Mexican father or mother, who has lost his or her citizenship, and to whom the third and fourth paragraphs of article 1 refer; the foreigner who marries a Mexican, referred to in paragraph 6 of the same article; the children of a foreign mother and unknown father, born on national territory, as specified in paragraph 2 of article 2; and a Mexican widow of a foreigner, as treated in paragraph 4 of the same article, shall be considered as legally naturalized by solely complying with the requisites in such cases and without the necessity of other formalities.

ART. 19. Foreigners who find themselves within the scope of paragraphs 10, 11, and 12 of article 1 may apply to the department of foreign affairs for their certificate of naturalization within the term specified therein. Their petition should be accompanied by a document accrediting them, as the case may be, with the acquisition of real estate, or that they had children born in Mexico, or had accepted some public position. They will also present the renouncement and protest required under articles 14 and 16 for ordinary naturalization.

ART. 20. Absence in a foreign land by permission of the Government does not conflict with the residence clause in article 13, provided it does not exceed six months during any period of two years.

ART. 21. Certificates of naturalization shall not be extended to subjects or citizens of any nation with which the Republic may be engaged in war.

ART. 22. Neither shall certificates be given to those who are judicially repudiated, and, in other countries, declared to be pirates, slave dealers, incendiaries, counterfeiters of coin, or forgers of bank bills or other paper passing current as money, nor assassins, kidnappers, or thieves. By common right, naturalization papers fraudulently obtained by a foreigner in violation of the law are null and void.

ART. 23. The certificates of naturalization shall be issued gratuitously, nor may any fee for costs, registry, seal, or other expense be collected thereon.

ART. 24. The act of naturalization being a very personal matter, the petitioner may only be represented by a proxy who has special and sufficient powers for the act, and who holds the renoucement and protest made in person by the interested party himself, according to articles 14 and 16. But in no case may the powers of the proxy substitute the actual residence of the foreigner in the Republic.

ART. 25. The character of citizen or of foreigner is not transferable to a third party. Therefore, for obvious reasons, neither can the citizen enjoy the rights of a foreigner, nor the latter the prerogatives of the former.

ART. 26. The change of nationality does not produce retroactive effects. The acquisition and rehabilitation of the rights of a Mexican only take effect on the day following that on which all the conditions and settled formalities of this law have been complied with to obtain naturalization.

ART. 27. Colonists who come to this country under contract with the Government, and whose expenses for traveling and installation are paid by the same, shall be considered Mexicans. In their enrollment contract shall be specified their intention to renounce their former nationality and adopt the Mexican, and on settling in the colony they shall file with the competent authorities the renoucement and protest, as required under articles 13 and 16. The authorities shall send the same to the department of foreign affairs, which in turn shall issue the certificate of naturalization in favor of the interested party.

ART. 28. Colonists who come here on their own account, or for private companies and organizations not subventioned by the Government, and also immigrants of all classes, may become naturalized in each case under this law. Colonists established up to the present are subject also to the law in this particular in every respect that does not conflict with the rights acquired through their contracts.

ART. 29. The naturalized foreigner shall become a citizen of the Republic as soon as he complies with the conditions required by article 34 of the constitution, being clothed with all the rights and obligations as a Mexican citizen; but he shall not be qualified to discharge those trusts or employments which, in conformity with the laws, require the nationality by birth, unless he had been born in national territory, and that said nationality had been effected by paragraph II of article 2.

#### CHAPTER IV.—OF THE RIGHTS AND OBLIGATIONS OF FOREIGNERS.

ART. 30. Foreigners in the Republic share the civil rights pertaining to Mexicans, and the guarantees offered in section 1, title 1, of the constitution, with the sole exception of the faculty held by the Government for the expulsion of pernicious foreigners.

ART. 31. In the acquirement of waste and Government lands, of real estate, and of ships, foreigners are not obliged to reside in the Republic, but are subject to the restrictions imposed by the laws now in force, with the understanding that all leases of real estate made to a foreigner shall be considered as sales if the term of the contract exceed ten years.

ART. 32. The federal law alone can modify the civil rights of foreigners by the principle of international reciprocity, so that, therefore, foreigners may be subject in this Republic to the same legal disqualifications which the laws of their country impose on Mexicans there resident. Consequently the provisions of the civil code and of district procedure possess, in this respect, a federal character, and are obligatory throughout the Union.

ART. 33. Foreigners, without forfeiting their own nationality, may make their homes in the Republic for all legal effects. The acquirement, change, or relinquishment of their residences are subject to the laws of Mexico.

ART. 34. In case of the suspension of individual guarantees, in the terms prescribed by the twenty-ninth article of the constitution, foreigners and Mexicans are alike subject to the law decreasing the suspension, save in the case of treaty stipulations.

ART. 35. Foreigners are obliged to contribute towards public expenses in the manner prescribed by the laws, and are also required to respect and obey the institutions, laws, and authorities of the country, 'subjecting themselves to the decisions and sentences of the courts and without appeal to other resources than are granted to

Mexicans by the laws. They can appeal to the *via diplomatica* only in case of the denial of justice or of voluntary delay in its administration, after having exhausted, without effect, the common legal resources, and that as determined by international law.

ART. 36. Foreigners do not enjoy the political rights of Mexican citizens. They, therefore, cannot vote, nor be voted for in any popular elections, nor be named for any position or commission in a State career. Nor can they join the army, navy, or national guards, nor become associated with, or engaged in, the political questions of the country; nor exercise the right of petition in these matters. This is understood not to conflict with the provisions of article 1, paragraph XII, and of article 19 of this law.

ART. 37. Foreigners are exempt from military service. Foreign residents, though, are obliged to serve as police in the event of preserving property and of maintaining order in the place in which they live.

ART. 38. Foreigners participating in the civil dissensions of the country may be expelled from its territory as pernicious foreigners, being subject to the laws of the Republic for any crimes they may commit against it, and without the privilege of having their rights and obligations regulated by international law or by treaties in case of a state of war.

ART. 39. The laws establishing the matriculation of foreigners are repealed. The department of foreign affairs alone can issue certificates of determined nationality to foreigners soliciting the same. These certificates constitute a legal presumption of foreign citizenship, but proofs to the contrary are not barred. The definite proof of determined nationality is presented before the competent courts and by the means established by laws or treaties.

ART. 40. This law does not concede to foreigners any rights denied them by international law, by treaties, or by the laws in force in the Republic.

#### CHAPTER V.—TRANSITORY MEASURES.

ARTICLE 1. Foreigners who have acquired real estate, or have had children in Mexico, or have held some public position, and who are embraced in the provisions of paragraphs X, XI, and XII of article 1 of this law, are obliged to manifest, within six months after its publication, provided they have not previously done so, to the political authorities of their place of residence, whether they desire to obtain Mexican nationality or to retain that of foreigners. In the first event, they should immediately apply for the certificate of naturalization, according to the form prescribed in article 19 of this law. If they fail to manifest, as indicated, they shall be considered Mexicans, save in cases where official declaration has been made on that point.

ART. 2. Colonists resident in the country, to whom the last part of article 28 of this law refers, shall manifest, in the manner specified in the preceding article, the nationality they wish to retain, and also apply for their certificate of naturalization under the provisions of that article, if the nationality they desire be Mexican.

ART. 3. The Executive, in issuing the necessary regulations for the execution of this law, shall see that requisite measures are taken, so that the local authorities may, as far as they are concerned, give it due fulfillment.

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No. 310.

*Mr. Morgan to Mr. Bayard.*

No. 242.]

LEGATION OF THE UNITED STATES,  
*Mexico, June 12, 1886. (Received June 21.)*

SIR: Referring to my No. 231, of 26th ultimo, relative to the attack made by Mexican soldiers upon United States troops at Teopar, in which Captain Crawford lost his life, I have the honor to inclose herewith copy of Mr. Mariscal's further note upon this subject, with accompaniment, received at 10.30 a. m. yesterday, and to say that I have deemed the case of such importance as to warrant my sending you the following telegram:

To-day I send further report from Mexican Government relative to killing of Crawford.

42 F R



The appearance of the inclosure (being in three different handwritings) is the unavoidable consequence of the prompt dispatch I have endeavored to give it; the accuracy of the copy I have proven by comparing it myself with the original.

I am, sir, &c.,

J. L. MORGAN.

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[Inclosure 1 in No. 242.—Translation.]

*Mr. Mariscal to Mr. Morgan.*

DEPARTMENT OF FOREIGN AFFAIRS,  
Mexico, June 10, 1886.

MR. CHARGÉ D'AFFAIRES: In accordance with the offer contained in my communication of the 19th of May last, I have the honor to transmit herewith to the legation under your able charge, the information which should be considered as Appendix No. 5 to said communication; the object thereof being to prove the grave excesses committed upon Mexican territory by the very same Apaches that were serving under the command of Captain Crawford, and were present at the unfortunate encounter at Teopar.

Be pleased to accept, &c.,

IGNO. MARISCAL.

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*Instructions to General Crispin S. Palomares, commissioned to make a judicial investigation regarding depredations committed in the Moctezuma district by the tame Apaches, under the command of Captain Crawford.*

1. To apply to the prefect of the district, giving him for his information a copy of the communication conferring upon him the authority to make a detailed and itemized report of the date on which Captain Crawford entered Mexican territory; giving, if possible, the number of Indians commanded by the latter, and if he placed himself in communication with the (Mexican) authorities; how many Americans came with him; the first inhabited place he touched or to which he came nearest; the route which he took; in what places he camped; what knowledge the prefect had of any depredations committed by those Indians; if they killed any persons, giving their names, with dates and places of their being killed; if those Indians stole any beeves, the names of owners and places of theft should be stated; if the prefect has any knowledge on what date the aforesaid captain was killed, how he came to hear of that misfortune, and in what language the news was communicated to him; in what place the occurrence happened and what occasioned the same.

2. To transmit to the judge of the primary court of Moctezuma a copy of the communication authorizing General Palomares to institute the investigation and to direct him to issue orders to the local magistrates and their immediate subalterns, along the whole route taken by Captain Crawford with said Indians, to comply with instructions they may receive of General Palomares.

3. Taking charge of all these orders, the general will proceed to each of the places along the route passed over by said Indians and give to each judge the respective order. The latter shall thereupon begin to take, in conformity with his order, the affidavits of witnesses brought before him by the general. The witnesses must testify on following points: Date on which the captain, with his Indians, arrived there; the location of their camp; how long they remained at that place; what scouting expeditions were made by the captain, and whether they were made with all his Indians or whether the Indians sometimes went on expeditions by themselves; what depredations were committed by them at that place, stating in detail if they killed any person, and if so, giving the name of the latter, with date of the killing and place of interment of the remains; if the Indians stole any cattle, stating the number of such, from what places stolen, and names of owners; and finally, the witnesses must state the date on which the captain broke camp and the direction taken by him. Preferably those individuals shall be examined who were eye-witnesses of the facts, and special care must be taken that they explain how they came by their knowledge, and that they state the local market value of the cattle (stolen).

4. Upon arrival at the place where the killing of Captain Crawford occurred, the following facts must be established before the judge: Day, place, and hour of his (Captain C.'s) arrival there; place where he encamped; number of days he remained there; scouts made by him, and if he used to go out with *all* the Indians, or if the

latter sometimes went on expeditions by themselves; the place or places where the Mexican military forces then were; if about that time raids were being made by hostile Indians; if the Mexican troops were scouting to attack the latter; if the captain (Crawford) informed the (local) authorities of his arrival; also, if he so notified the Mexican troops; if he was in the habit of notifying either of them of his scouts made during his stay at that place; if the unfortunate affair happened while he (Captain C.) was in camp or on an expedition against the hostiles; day, place, and hour of the occurrence of the accident; if the Mexican forces were then out on an expedition against, and in pursuit of, the hostiles; how many persons perished in the misfortune besides the captain. If the Indians began the firing it will be proper to have it so stated.

5. The prefect as well as the witnesses will also state, if they know, to what tribe the tame Indians brought by Captain Crawford belonged.

6. Whether at any places where these tame Indians stole cattle, they confined themselves to taking and killing solely for their subsistence, or whether they took away with them those they stole; in the latter case it must be stated how many head they took away with them, whether the owners reclaimed them of the captain, giving the names of such claimants and the answers given by the captain; what persons presented the claim or claims, taking the affidavits of those who personally presented such claim or claims.

7. At each and every place where this investigation is conducted, the interrogatories shall be more or less the same in their nature.

8. When the proceedings upon each of the respective requisitions shall have been completed, they will be turned over to the judge of the primary court of the district of Moctezuma, that the originals, as one document, may be delivered to General Palomares.

Hermosillo, March 16, 1886.

A true copy.

EDUARDO CASTAÑEDA.

COCORRIT, April 30, 1886.

CRISPIN DE SO. PALOMARES.

*Investigation held regarding depredations committed by the tame Apaches under the command of Captain Crawford in the district of Moctezuma.*

#### HEADQUARTERS OF THE NATIONAL ARMY.

The general commanding the first military zone (department), under date of 22d February last, and under office number 152, states to me as follows:

"Under date of the 2d instant, the department of war and navy telegraphed to these headquarters as follows:

"'Appoint an intelligent commissioner, who with the assistance of a lawyer of integrity and ability, shall, before the proper authorities, take the testimony of witnesses regarding all depredations committed upon our territory by the Indians accompanying the American captain, Crawford, endeavoring to have said testimony contain a detailed account of all the depredations and murders committed by aforementioned Indians, as also to what tribe they belong; to which effect you will instruct the commissioner appointed by you to proceed with a proper escort from this post to all towns, plantations and cabins, where the excesses to be proven took place. Upon completion of the investigation, the proceedings will be transmitted with all possible dispatch to this department.'

"I transmit this copy to you and inform you that, taking into consideration your ability and experience so suited to these delicate commission, these headquarters have seen fit to appoint you to the discharge of the same, and to direct that to-morrow you will proceed hence to the points indicated by the war department, taking for notaries and counselors in the projected investigation such persons as can be found at the points nearest to those where Captain Crawford presented himself, which persons must be lawyers of integrity, as required by the telegram herein cited."

By virtue of the afore cited orders from higher authority, and with the object of fully discharging this duty placed upon me, I shall be thankful to you if you will please issue the necessary instructions for the court under your able charge to proceed to all the places within its jurisdiction whereat, according to the official data which I have obtained of the prefecture of this district and the originals of which I inclose, it seems that the depredations and excesses referred to were committed by the tame Apaches led by Captain Crawford, in order to produce legal proof of said depredations.

For this purpose, I beg you will, at the seat of government of each of the respective municipalities, institute a judicial investigation before yourself in person, citing as witnesses all persons who, according to official reports rendered to the prefecture

of this district by the municipal presidents, and according to the official data inclosed by me, have personal knowledge of the acts, and all others who assert to have such knowledge. All these you will please have under oath make deposition as to such acts in each municipality and place where the depositions are made, on the following points: The date on which the above-mentioned Captain Crawford arrived with the forces of his command, stating the number of tame Indians composing the same and of the American employés with their pack-trains; the place where said forces encamped, the time they remained there, and whether scouts were made by them during their stay at the place, and whether such scouts were made in an orderly way and by the whole force, or whether, on the contrary, the Indians sometimes went on expeditions by themselves, at their own option and in small parties, and, if so, stating the number composing such parties; what depredations they committed at that place and at other points within the municipality, stating in detail whether they killed or wounded any persons, the names of such, the date of the occurrence, and the place of interment in case of any persons so murdered; whether they killed or stole any cattle, stating the number of head and place whence taken, and the names of the owners of those or other movables stolen; and, finally, they should give the date on which said Captain Crawford broke camp and state the direction taken by him with his force, explaining furthermore why they allowed themselves to be damaged as testified by them, and what is the value of the live stock and other effects stolen or destroyed. Upon completion of these proceedings you will please deliver the original to me that I may make my report to higher authority.

Liberty and constitution.

Moctezuma, March 22, 1886.

CRISPIN DE SO. PALOMARES.

The JUDGE OF THE PRIMARY COURT OF THIS DISTRICT,

*Present.*

STATE OF SONORA, [Seal.]

*Prefecture of District of Moctezuma:*

In reply to your esteemed communication of the 19th instant, I have the honor to render the report requested of me, regarding depredations committed by the tame Apaches that, under command of the American captain, Emmet Crawford, took part in the late campaign on this frontier against the hostile Indians, and regarding the official reports rendered to this prefecture by the municipal presidents of the towns in this district touched by the Indians, giving notification of the depredations committed by said Indians, and of the route traversed by Captain Crawford with his force from their entrance into this district till their departure therefrom, I have the honor to send you correct copies thereof from the originals on file in this office (prefecture), which you were pleased to request, and which I copy literally, as follows:

OFFICE OF THE COMMISSARY OF NACOSARI.

I have the honor to bring to your knowledge the following facts: Day before yesterday there passed through these parts an American force composed of forty packers and one hundred so-called 'tame' Indians. Immediately upon their entrance they began to fire upon the cattle by the way, and I was informed by Mr. Manuel Pereida and his son José Jesus, whom I authorized to reconnoiter the vicinity, that the firing resulted in the killing of four and mortally wounding of four head of cattle, which were the property of José Maria Torres (two head), Mrs. Apolonia D. de Langstone (four head), Mrs. Trinidad Dirrazo (one head), and Lorenzo Torres (one head). I must inform you that the Chiricahuas, to which tribe these Indians belong, passed along in complete disorder without being restrained by the four officers commanding them, and that they went in the direction of Capadehuache. This I communicate for your information and other (proper) purposes.

Liberty and constitution.

Mining town of Nacosari, December 20, 1885.

JESUS G. SANTA CRUZ.

The PREFECT OF DISTRICT OF MOCTEZUMA,

*Municipal Presidency of Guásabas.*

I have the honor to bring to your knowledge that yesterday, about 6.30 a. m., there passed through this place the American force of Capt. Emmet Crawford, composed of one hundred and forty men—one hundred Indians and the rest packers—and four officers, and so far as I could find out, this force came from Nacosari. At 7 a. m. of the 21st they arrived at Capadehuache, where they encamped that day and killed some beeves belonging to Messrs. Woodward and Venucio Pinazo. Leaving thence



on the 22d, they arrived on the same day, at about 11 o'clock, at Güeverache, where they again encamped and remained until 6 a. m. of the 24th, passing through here as aforesaid at 6.30 o'clock, going toward Granados. I must inform you that while they were encamped at Güeverache, about 1 mile from here, those Indians daily came down to this town, and in a state of drunkenness committed numberless disorders, and that in the night of the 23d, between 7 and 8 o'clock, while they were being restrained in their disorderly conduct by the town constable, Eulogio Peralta, the latter was attacked by them, which compelled me to ask for protection of the detachment of gendarmes under Emilio Kosterlitzky, who granted said protection and came himself with aforesaid constable and four other men, to bring said Indians to order; and as they showed themselves rebellious, and made an attack with stones, clubs, and a dagger, Kosterlitzky himself fired upon them, wounding one Indian, and arresting one other, who was given into my custody for punishment. I put him into prison, but during the night the American lieutenant, Maus, came to me and requested of me the Indian, offering his word as security for the payment of the \$5 fine imposed by me on the Indian, and which was never paid by said Maus. I also inform you that these Indians went into the fields at Güeverache and into those along the road leading to Granados, and committed therein great destruction, and stole sugar-cane to the value of \$100, more or less, said fields being the property of Mr. Catarino Grijalva, Manuel Francisco, and Cecilio Leiva, Pedro Montoya, and Miguel Arvizu. This statement I make for your information and other (proper) purposes.

Liberty and constitution.

Guasabas, December 25, 1885.

C. LEIVAS.

The PREFECT,

*District of Moctezuma.*

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#### TOWN HOUSE OF GRANADOS.

Yesterday, at 6 a. m., I was informed by a person arriving at Tepache, that on the summit of the ridge of "Cacalote," a man and three donkeys lie killed, and three pack-saddles and bags scattered about. I at once informed the (municipal) president of Guasabas, and asked for assistance to send out a reconnoitering party; and gathering as great a force as I could muster, together with twelve men from Guasabas who arrived at 12 o'clock (I had only about twelve besides the latter), I sent them all out as one party, under command of Lieut. Juan Pinazo, who, having returned to-day, made report to me, of which I subjoin copy:

"Complying with instructions from your office, I began my march with twelve men of the national guard of this town, together with twelve others from Guasabas, yesterday, 26th instant, at about noon. I organized the march with all necessary precautions; arrived at Tinaja at 5 o'clock, where I ordered the forces to have supper, at the same time sending out videttes by all known passageways without their discovering anything. Soon after that I continued my march with the same precautions, until I arrived at the foot of the ridge of Cacalote, where I let the forces rest till the rising of the moon, when I resumed the march until I got on top of the ridge, where, in the last settlement, I found the corpse of Francisco Lavandera. I then at once placed the greater part of the men in the best defensive positions, while I sent out the rest to hunt up young Tomas Moreno, whose body was found at a short distance. After I had them buried, I returned to the foot of the ridge, where I waited until daybreak. So soon as it was day I resumed the march, and at Tinaja, where we had supped the night before, were discovered six foot-tracks over our trail, which upon close examination I was convinced were those of Indians. I was not able to follow them, because we brought no rations and had with us the loads of the deceased. I kept on cautiously without any further occurrence, till I arrived in this town."

I have the honor to communicate the above to your superior authority, for your information and action.

Liberty and constitution.

Granados, December 27, 1885.

V. ARVIZU.

The PREFECT,

*District of Moctezuma.*

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#### TOWN HOUSE OF GRANADOS.

On the 25th instant there passed through this town the company of tame Indians under the command of the American Capt., Emmet Crawford. After they had passed the field judge went with some neighbors in the direction of Tinaja. Soon they encountered the carcasses of six beeves, and the fires at which the Indians had roasted beef; but as it was already late in the day they could not reconnoiter the country. Yesterday, the 26th, the same field judge, with more neighbors, again reconnoitered,

and then they found eleven dead cattle; of these ten were steers and one was a small cow; but few of them were cut up for beef, the rest being untouched. There is no doubt that they were killed by the Indians of the American expedition, because one of the packers of said force so informed some persons who had heard the firing by the Indians to the north of the ridge of Bacalejaca.

The foregoing I bring to your knowledge for your action.

Liberty and constitution.

Granados, December 27, 1885.

V. ARVIZU.

The PREFECT,  
*District of Moctezuma.*

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TOWN HOUSE OF BACADEHUACHE.

I have the honor to bring to your knowledge that yesterday at about 6 a. m. there passed through this settlement, under my charge, one hundred tame Chiricahua and White Mountain Indians, with forty American packers and four officers, under the command of Capt. Emmet Crawford; and that said force went in the direction of Nacori, without requesting of me the proper permit or pass. I also inform you that said force was encamped during the night of the 25th about 2 miles from here at a place called "Agua Caliente," where they arrived pretty late. I also have to state that the field justice of this place went to where said force had been encamped, accompanied by citizens Marcelo López, Miguel and Rosalio Galaz, and José Romero; and that they found two heifers killed and cut up for beef, which were the property of Francisco Valencia, a resident of Sahuaripa.

The foregoing I submit for your information.

Liberty and constitution.

Bacadehuache, December 27, 1885.

CRISTÓBAL VALENCIA.

The PREFECT,  
*District of Moctezuma.*

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TOWN HOUSE OF BACADEHUACHE.

Under this date the commissary of Nacori reports to me as follows:

"On the 27th there arrived at a place called the 'Sansillo,' an American force composed of forty packers, four officers, and one hundred Indians, under command of Captain Crawford. There they encamped, killing that day three beeves, which I have been informed they purchased of the residents of that place. They remained there until the morning of the 29th, when they broke camp and went in the direction of this precinct; passing through this on the same day, they encamped at a distance of a little more than a league (3 miles) from here, at a point called Temosachic. I have the honor to state that between Sansillo and this precinct the said tame Indians shot and killed eight head of cattle; two, the property of Carmen Escalante; two of Guadalupe Quijada; one of Jesus Artado; and two of Gervansio Valencia; and one of Aristeo Antunez. At Sansito, a party of nineteen Indians detached itself from the American force, which party took a direction opposite from that taken by the main body."

The foregoing I refer to you for your information.

Liberty and constitution.

Bacadehuache, December 30, 1885.

CRISTÓBAL VALENCIA.

The PREFECT,  
*District of Moctezuma.*

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TOWN HOUSE OF BACADEHUACHE.

Under this date the commissary of police of Nacori makes to me the following statement:

"To-day I learned from a resident that the force of tame Indians under Captain Crawford went from Temosachic, where they had been, to Basuche, whence they are scouting through the mountains in the direction of Sahuaripa."

The foregoing I report for your information.

Liberty and constitution.

Bacadehuache, January 2, 1886.

CRISTÓBAL VALENCIA.

The PREFECT,  
*District of Moctezuma.*

## TOWN HOUSE OF BACADEHUACHE.

Under date of yesterday the commissary of police of Nacori reports to me as follows: "I bring to your knowledge that at about 8 a. m. on the 21st instant, within the precinct under my charge, were heard more than one hundred shots fired in the direction of Temosachic. Without delay I went out with 5 men to see what had happened, and upon arrival at Temosachic I found the expedition of tame Indians and the American force, the former of whom had fired those shots upon some cattle, killing 3 of them, which belonged, one each, to Guadalupe Quijada, Aristeo Antunes, and Isabel Hurtado. Immediately after my arrival I presented myself to Lieutenant Maus and endeavored to have a stop put to the excesses of the Indians, in which I succeeded, the firing being discontinued. Lieutenant Maus then informed me that Captain Crawford had died as the result of a wound inflicted upon him during an encounter, by mistake, with a force from Chihuahua; and that they brought the corpse with them to have it interred in this precinct, for which purpose he requested of me the necessary permit, which I granted.

"From Temosachic, I returned to this precinct, accompanied by the lieutenant's interpreter, Tomas, leaving Lieutenant Maus with his force at Temosachic. On the road, the interpreter, Tomas, and I had considerable conversation regarding the death of Crawford. He said that the American force was scouting through the Sierra Madre in pursuit of hostile Apaches; that they attacked the latter on January 10, succeeding in capturing Chief Nané and some others of the Indians—men and women; that they encamped where they had attacked the Indians, awaiting peace negotiations with Chief Gerónimo, who, through a squaw, had placed himself in communication with Captain Crawford; but that at daybreak of the 11th a party of national troops from Chihuahua, which was following the trail of the same hostile Apaches, that had gotten that far, misled by this confused state of affairs, opened fire upon them, both sides engaging in the conflict; that as Captain Crawford noticed the mistake made by the national troops, he got upon a large rock and endeavored, by raising a white handkerchief, to make himself known, the interpreter imitating his action; but that the firing was fierce at the time, and that Captain Crawford received a shot in the forehead and fell mortally wounded; that the interpreter, also wounded in the arm, ran and called out to make himself known; and that thereupon the nationals discovered that they were attacking the American force of tame Apaches, suspended their firing, and approached to explain to them their mistake. The interpreter stated that the wounded Crawford lingered seven days. I also inform you that the remains of Crawford were to-day interred in this settlement, and that the American force, with the Indians, left this precinct to-day in the direction of your town."

The foregoing I transmit to you for your information.

Liberty and constitution.

Bacadehuache, January 23, 1886.

CRISTÓBAL VALENCIA.

The PREFECT,

*District of Moctezuma.*

## TOWN HOUSE OF BACADEHUACHE.

I bring to your knowledge that on the day before yesterday there passed through this town, going toward Bacerac, an American force composed of 100 Indians, 40 packers, and 3 American officers, under command of Lieutenant Maus, in some disorder, the Indians stealing some pieces of beef from several slaughtering places. I also inform you that about a league from here, at a point called the Highland of José, which is on one side of the road, the same Indians shot and killed a cow, property of Francisco Terán, residing in this town; that they passed on, encamping at night at a station called "La Tinaja," where they did not commit any depredations.

The foregoing I communicate to you for your information.

Liberty and constitution.

Bacadehuache, January 23, 1886.

CRISTÓBAL VALENCIA.

The PREFECT,

*District of Moctezuma.*

## TOWN HOUSE OF BACERAC.

I have the honor to bring to your knowledge that on the day before yesterday there passed through this settlement a party of American forces under command of Lieutenant Maus, composed of 40 packers, 3 officers, and 6\* Chiricahua and White Mount-

\* Should read 100. Mistake evidently by copyist, in writing *seis* (6) instead of *cien* (100).



ain Indians; and that soon thereafter came to me the resident citizens, Ignacio Davilla, Francisco Loreto, and Francisco Zozaga, who claimed that Indians of aforesaid force were mounted on two mules and two donkeys belonging to claimants. I therefore, accompanied by said residents, went forth to overtake the command, which I did before it arrived at Bavispe. I at once claimed the animals, proving the ownership, but could not obtain them, although Lieutenant Maus promised to surrender them as soon as he should arrive at the Cañada, close to which place he stationed himself for the night. I proceeded to that camp with aforementioned persons, and in passing through Bavispe we were joined by citizens Fleis Samaniego, Luis Gomez, Reynaldo and Antonio Samaniego, who were also going to reclaim some animals belonging to them which said Indians had taken with them. At the camp Lieutenant Maus was about to deliver the animals to said owners, but the Indians rebelled and disregarded the authority of Maus, refusing to give up the animals. Then Lieutenant Maus offered that so soon as he should arrive at Matiz, where he could make his authority respected, he would gather these animals and have them returned to their owners; he even making notes as to which of the animals were theirs. With this result we had to return to Bavispe. I call your attention to the fact that Major Kosterlitzky was with Lieutenant Maus when the said Indians interfered with the latter's action.

The foregoing I communicate to you for your information.

Liberty and constitution.

Bacerac, January 30, 1886.

JOSÉ G. ZOZAGA.

#### TOWN HOUSE OF BAVISPE.

I have the honor to inform you that yesterday there passed through this town Crawford's American force, composed of 40 packers, 3 officers, and 100 Chirichua and White Mountain Indians, which force encamped last night about 2 leagues (6 miles) from here at a point called the Cañada. After said force had passed by there came to me the residents, Fleis, Reynaldo, and Antonio Samaniego, and Luis Gomez, declaring that those tame Indians had stolen and taken with them some animals belonging to them. I directed them to join the municipal president of Bacerac, who was also following said force for the purpose of recovering some animals, and to make their claims at the same time with him. They did so, and went to the camp of the American force. Quite late they returned to me and told me that Lieutenant Maus, after inspecting their titles and brands, acknowledged their ownership of the animals, but did not surrender them, although disposed to do so, because the Apaches opposed themselves, assumed a threatening attitude, and disobeyed Lieutenant Maus; but that the latter gave them to understand that upon arrival at Matiz he would gather these animals and have them delivered to their owners.

The foregoing I state for your information.

Liberty and constitution.

Bavispe, January 29, 1886.

In the absence of municipal president.

JESUS SAMANIEGO,  
*First Supervisor.*

The above copies of papers I have the honor to transmit to you, adding that the first inhabited place in this district touched by the American forces under command of above-mentioned Captain Crawford, engaged in the recent campaign against the hostile Apaches, was the mining town of Nacozari, where they arrived on the 17th of last December; that they failed to previously notify this prefecture; that they continued their march through the places mentioned in above official reports as far as the settlement of Nacori; that from the latter place they took a route through an entirely desert section in different directions, mainly southeast, to the point in the Sierra Madre where, through a mistake, the encounter took place, according to rumor, between a party of (Mexican) National troops from the State of Chihuahua and the forces of Captain Crawford, during which lamented encounter said captain was mortally wounded, lingering seven days, and buried at Nacori upon the return of the American forces to that place; after which the American forces under command of Lieutenant Maus kept on their way, leaving this district at Bavispe, through which town they passed January 28, 1886, continuing their march till they crossed the boundary line between our territory and the United States of America, the said tame Apaches on the return route committing some depredations, as shown by the respective official reports.

Be pleased to accept, general, the dutiful assurances of my consideration and respect.

Liberty and constitution.

Moctezuma, March 21, 1886.

To General CRISPIN S. PALOMARES.

J. M. TORRES,  
*Prefect.*

[SEAL.]

REPUBLIC OF MEXICO,  
CONSTITUTIONAL GOVERNMENT OF THE  
FREE AND SOVEREIGN STATE OF SONORA.

I, Luis E. Torres, constitutional governor of Sonora, do hereby certify that the foregoing signature of citizen J. M. Torres, prefect of the district of Moctezuma, is his signature as affixed by him to all of his public documents, and this certificate is given by me that full faith and credit may be given by all concerned.

Hermosillo, April 21, 1886.

Attest:

LUIS E. TORRES.

RAMON CORRAL,  
*Secretary.*

[SEAL.]

PRIMARY COURT OF MOCTEZUMA,  
March 23, 1886.

The foregoing communication having been received, together with accompanying documents, in compliance with the request of General Crispin de S. Palomares, it is hereby ordered that the investigation be held, and that the proceedings, when complete, be delivered to the general for the purpose indicated. Thus the judge of the primary court of the district, citizen Joaquin Monge, decreed, ordered, and signed in presence of his court witnesses. So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

On the same date were also issued the subpoenas required for the evidence necessary to verify statements made in the communication of the commissary (of police) of Nacozari.

Hereby so certified.

MANUEL PEREIDA.

On the 25th of the same month, in obedience to subpoena, appeared before this court citizen Manuel Pereida, who being duly sworn, stated that his name is as aforesaid; is thirty-six years of age; married; a miner; native of Cumpa, and resident of the mining town of Nacozari. Being examined as to the part of the communication of the commissary of police of Nacozari concerning him, which part was read to him, he testified that the statements made in said communication he knows in effect to be true, because he and his son, José Jesus, were detailed to reconnoiter the country surrounding Nacozari, where the American forces of Captain Crawford, composed of forty packers and one hundred Chiricahua Indians, passed, firing upon the stock encountered by them on their way; that during such reconnoissance they found that eight head of cattle were four killed and four mortally wounded; these being the property of the following: One cow wounded and one killed, of José Maria Torres; two killed and two wounded of Mrs. Apolonia Durazo de Langstone; one steer (two or three years old) of Lorenzo Torres, and one cow killed of Trinidad Durazo; that after these depredations said forces continued their way in the direction of Capadéhuache. Further, deponent said not.

This testimony being read to him he declared it correct. He did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

JOSÉ JESUS PEREIDA.

Thereupon, in obedience to subpoena, appeared before this court the young man, José Jesus Pereida, who being duly sworn stated, that his name is as above written; is fifteen years of age; bachelor; farmer; native and resident of Nacozari. Being examined as to the parts in the communication of the commissary of police of Naco-

zari, and in the affidavit of his father, Manuel, concerning him, which parts were read to him, he testified that the statements of both are correct, that on the 17th of last December an American force under command of Captain Emmet Crawford, composed of 40 packers and 100 so-called tame Chiricahua Indians, passed through the mining town of Nacozari, and that on their way they fired upon the cattle encountered by them, killing and wounding 8 head of cattle, property of the following: Of José M. Torres, 1 mortally wounded and 1 killed; of Mrs. Apolonia Durazo de Langstone, 2 killed and two seriously wounded; of Lorenzo Torres, 1 heifer (two or three years old) wounded, and of Trinidad Durazo, 1 cow killed; that after the Indians had passed on he and his father, by order of the commissary, went out to reconnoiter the vicinity of Nacozari, and discovered the depredations mentioned by him; that the forces then went in the direction of Bacadéhuache. Further, deponent said not.

This testimony being read to him he declared it correct. He did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

#### TRINIDAD DURAZO.

Foregoing was followed by the affidavit of citizen Durazo, who, being subpoenaed, appeared before this court, and being duly sworn, stated that he is named as aforesaid; is thirty years of age; married; stock-raiser; native of the town of Granados, and at present resides at Nacozari. Being examined as to the statements in the communication of the commissary (of police) of Nacozari concerning him, the same being read to him, he testified that they are true; that on the 17th of last December an American force under command of Capt. Emmet Crawford, composed of 40 packers and 100 so-called tame Chiricahua Indians, passed through Nacozari; and that during their passage they fired upon the cattle which they encountered, without being restrained by the American officers commanding them; that after a little while he went out to learn what depredations had been committed, and that he found 4 head of cattle killed and 4 wounded; that two or three were the property of José M. Torres (1 killed and 1 wounded); 2 killed and 2 wounded belonged to his sister, Mrs. Apolonia Durazo de Langstone; 1 steer (two or three years old) belonged to Lorenzo Torres, and was wounded; and 1 cow belonging to himself was killed; that he has not the slightest doubt that said Indians committed those depredations, as they were seen in the act; that the American force left Nacozari, going toward Capadéhuache. Further deponent saith not.

This testimony being read to him he declared it correct. He did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERÁN,  
*Court Witnesses.*

#### JOSÉ M. TORRES.

Thereupon, in obedience to subpoena, appeared before this court citizen José M. Torres who, being duly sworn, stated that his name is as foregoing; he is thirty-eight years of age; widower; native; employé (and resident) of the State of Sinaloa, being now a resident of this place, living on Plaza street. Being examined as to the part referring to him in the communication of the commissary of police of Nacozari, which part was read to him, he testified that the statement is correct; that on the 21st of last December he was notified by the commissary of police of Nacozari that on the 17th of that month there had passed through that mining town a detachment of American forces under command of Capt. Emmet Crawford, composed of 40 American packers and 100 Chiricahua Indians; and that in passing they had fired upon the live stock encountered by them, resulting in killing 4 and wounding 4 head of cattle; that of these 1 killed and 1 mortally wounded were the property of affiant; 2 killed and 2 wounded belonged to Mrs. Apolonia Durazo de Langstone; 1 steer (two or three years old) belonged to his brother Lorenzo Torres, and 1 killed was the property of Trinidad Durazo; that so soon as he received information he proceeded to Nacozari, arriving there on the following day, the 22d, and there saw said killed and wounded cattle; that he made inquiries regarding these depredations, and that Trinidad Durazo.



Manuel Pereida, and the latter's son, José Jesús, and the commissary (of police) stated to him that they had seen the Indians fire upon the cattle.

This being all he had to say on the subject, foregoing testimony was read to him and by him found to be correct, except the words "and resident" which should be left out. So certified.

JOAQUIN MONGE.  
J. MARIA TORRES.

LUIS ARCE,  
F. MORENO TERÁN,  
*Court Witnesses.*

Under the same date it is stated regarding Lorenzo Torres and Mrs. Durazo de Langstone that this court has information that said persons are not at present within the district, for which reason their affidavits cannot be taken.

MONGE.

MOTTEZUMA, *March 24, 1886.*

It being indispensable for the proper prosecution of this investigation that the present judge personally conduct the same, the *personnel* of the court, together with the court witnesses, are directed to proceed to the towns of Guasabas and Granados, these being the most injured settlements and the nearest to the other points where the Apaches committed their depredations; and it is ordered that the necessary subpoenas be issued. Thus the undersigned judge of the primary court decreed, ordered, and signed before his court witnesses.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERÁN,  
*Court Witnesses.*

The foregoing order was complied with on the same date.

MONGE.

LUIS ARCE,  
*Court Witness.*

GUASABAS, *March 25, 1886.*

It having been stated in the communication which the municipal president of this town, on the 25th of December last, transmitted to the prefect of the district (and which is annexed to these proceedings), that the tame Apaches to the number of one hundred, who together with forty packers formed the American force under command of Capt. Emmet Crawford, were on the 21st of said December encamped on the ranch of Capadéhuache, and that there they killed some cattle belonging to Messrs. Woodward and Venancio Durazo; and that thence they left on the 22d, arriving at Hueverache, distant 6 leagues (about 18 miles), on the same day, where they again encamped; and that at that point, in the fields belonging to Catarino Grijalva, Manuel Trauco, Cecilio Leiva, and Pedro Montoya, and also in the town itself, they (the Apaches) committed depredations and disorders; let subpoenas be issued to aforementioned owners, and also to the constable of the place, Eulogio Peralta; the former to state what damages they sustained, and the latter of what disorders and misconduct the above-mentioned tame Indians were guilty. Thus the undersigned judge of the primary court decreed, ordered, and signed in presence of his court witnesses.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORINO TERÁN,  
*Court Witnesses.*

On the same date were issued the subpoenas above referred to.

MONGE.

GEORGE F. WOODWARD.

On the 26th of the same month, in obedience to subpoena, appeared before this court the American citizen George F. Woodward who, being duly sworn, stated that he is named as above stated; is twenty-seven years of age; married; stock-raiser; native

of the State of California; now a resident of Capadehuache. Being examined as to the part concerning him in the communication of the municipal president of this town he testified: That at about 7 o'clock a. m. of the 21st of last December, he then being at a ranch known as Capadehuache, of which he is part owner, a detachment of an American force arrived there under command of Capt. Emmet Crawford, composed of about forty American packers, some officers, and one hundred so-called "tame" Apache Indians, who encamped there until the following day, the 22d; and that during their stay several squads of the Indians left their camp, but he did not witness their depredations, because being alone with his family at the ranch he could not leave his family to look after them, but that on the day following their encampment he went out to reconnoiter in his fields, and then found some pieces of fresh skin; that when he saw this he ordered his herders to saddle their horses and go with him to search the surrounding country; that they so did and that he, Cesareo Cortes, and Manuel Vasquez, found in the fields, upon the very trail of said tame Indians, thirteen head of cattle recently killed, two being covered with hay; that nine of those were the property of Venancio Durazo, principal part owner of the ranch of Capadehuache; one belonged to himself, one to Fabrique Arvisu, one to Julian Moreno, and one to Mrs. Jesus Timbres; that all these cattle were four to six years old and in good condition; that he was informed by citizens Antonio and Ignacio Robles, Antonio Enriquez, and Toribio Coronado (herders of Venancio Durazo), that those tame Indians killed more than the above-enumerated cattle, but that he and his herders saw only the 13 to which he referred as being shot; that said American forces came from Nacozari and were very disorderly, because for about an hour before their arrival at his ranch he, and the others living there, heard more than 100 shots fired by the Indians along the road; that, so far as he could see, said forces had with them sufficient provisions for their subsistence; from which fact it is apparent that said tame Indians commit depredations, not from necessity, but from a natural inclination to destroy, and that such depredations and disorders are permitted by their officers, because the latter are unable to prevent them in any way. The foregoing he signed, adding that from Capadehuache the Americans, with the Indians, went on in the direction of Hueverache. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.  
So certified.

GEORGE WOODWARD.  
JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERÁN,  
*Court Witnesses.*

#### VENANCIO DURAZO.

Thereupon, in obedience to subpoena, appeared before this court citizen Venancio Durazo, who, being duly sworn, states that his name is as aforesaid; he is forty-one years of age; married; born and raised in and resident of Granados; that he is informed by his steward, Antonio Enriquez, who has charge of his property on the ranch of Capadehuache, that on the 21st of last December, at about seven o'clock a. m., there arrived at that ranch an American force, coming from American territory by way of Nacozari, under command of Captain Crawford, which force was composed of some forty packers and one hundred tame Chiricahua Indians; that they encamped there that day, and that on the same day some parties of the Indians went out and shot and killed some cattle, nine being his (affiant's) property, one belonging to the American, Jorge Woodward, one to Fabrique Arvisu, one to Julian Moreno, and one to Mrs. Jesus Timbres; affiant did not see them, because at that time he did not go out to the country, but he is sure these depredations were committed from the report of his steward, and from public report in this settlement and in Granados, his place of residence; that furthermore he was informed that said force remained encamped at Capadehuache until the morning of the 22d, when it left in the direction of Hueverache. Further deponent said not regarding depredations by said tame Indians while at Capadehuache.

This testimony being read to him, he declared it correct, and signed the same.  
So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERÁN,  
V. DURAZO,

*Court Witnesses.*

## MRS. JESUS TIMBRES.

On the same date, in obedience to subpoena, appeared before this court Mrs. Jesus Timbres, who, being duly sworn, stated that her name is as above mentioned; is thirty-nine years of age; widow; native and resident of Granados, and transiently at this place. Being examined as to the parts concerning her in the affidavits of Venancio Durazo and Jorge Woodward, which parts were read to her, she testified that she is informed by Toribio Coronado that on the 21st of last December an American force penetrated from Nacozari to Capadehuache and encamped at the latter place on the 21st, said force consisting of 40 American packers, 4 officers, and 100 Chiricahua Indians, under command of Captain Crawford, and that several parties of those Indians went about the country committing depredations, killing 13 head of cattle, 9 being the property of Mr. Durazo, 1 of affiant, and 1 each of Messrs. Moreno Arvizu, and Woodward; that on the following day, the 22d, the Indians left Capadehuache in the direction of Hueverache, where they again encamped. Further deponent said not.

This testimony being read to her she declared it correct, but did not sign the same, being unable to write; she added that she wants to be paid for the steer as well as for a cow killed by the same Indians on their passage through the settlement of Granados.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

## IGNACIO ROBLES.

On the 26th of the same month, in obedience to subpoena, appeared before this court citizen Ignacio Robles, who, being duly sworn, stated that his name is as above stated; is thirty-six years of age; married; herder; native and resident of this place. Being examined as to the part concerning him in the affidavit of the American, Woodward, which part was read to him, he testified that it is true that on the 21st of last December there arrived at Capadehuache, from American territory, by way of Nacozari, an American force, under command of Capt. Emmet Crawford, composed of 40 packers, 4 officers, and 100 so-called "tame" Chiricahua Indians; that on that day said force encamped there, arriving in complete disorder, the Indians going about the country in small parties; that at the time it was not noticed that they committed depredations, but that on the following day, the 22d, after the Indians and Americans had broken camp and left in the direction of Hueverache, affiant, Toribio Coronado, and Antonio Enriquez went out from the ranch to reconnoiter the vicinity and then found 19 head of cattle shot and killed by the Indians, being the property—15 of Venancio Durazo, 1 of Jorge Woodward, 1 of Fadrique Arvizu, 1 of Mrs. Jesus Timbres, and 1 of Julian Moreno; that there is no doubt that the tame Apaches committed those depredations, because the firing of the shots were heard, and the movements of the Indians and their tracks were seen, and other corroborating circumstances confirm these to have been their acts; that of the cattle killed but 2 were cut up for beef, the rest being left untouched, and the remains of the former being covered with hay, and of the latter no one had any benefit, as they were spoiled on the ground; that those cattle were in good condition, from four to seven years old. Further deponent said not.

This testimony being read to him, he declared it correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

## CESAREO CORTES.

Thereupon appeared before the court citizen Cesareo Cortes, who, being duly sworn, stated that his name is as above written; is forty years of age; married; herder; native and resident of this town. Being examined as to the part concerning him in



the affidavit of the American, Woodward, which part was read to him, he testified, that it is true; that on December 21 of last year, while affiant was at the ranch of Capadehuache, there penetrated from American territory, by way of Nacozari, an American force under command of Capt. Emmet Crawford, composed of forty packers, four officers, and one hundred Chiricahua and White Mountain Indians; that when these were yet about a league distant from the ranch the discharge of more than one hundred shots were heard, fired by the Indians along the road; that they arrived in complete disorder, went into camp there, and that shortly afterward several parties of Indians left camp; that it was not immediately noticed whether they had committed any depredations, but that on the following day, the 22d, after they had broken camp and left in the direction of Hueverache, affiant, the American Woodward, and Manuel Vasquez saddled their horses and went out to reconnoiter in the neighborhood of the ranch, and that then they found thirteen head of cattle shot and killed by the Indians, nine of them being the property of Venancio Durazo, 1 of Fadrique Arvisu, and the others 1 each of Mrs. Jesus Timbres, Julian Moreno, and Mr. Woodward; that he is sure said Indians killed those cattle, because, besides the firing, their tracks and movements gave evidence. Affiant is informed that in fact 19 cattle were killed, but, as he stated, he saw only 13. He stated that those cattle were large-sized and fat, four years and upwards of age, and that no one had any benefit of them, except that the Indians cut up 2 for beef and then covered the carcasses with hay; that such cattle are sold in the local market at \$20 per head, and that those killed were worth rather more than less than the above price. Further deponent said not.

This testimony being read to him he declared it correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

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#### ANTONIO ENRIQUEZ.

Subsequently, in obedience to subpoena, appeared before this court citizen Antonio Enriquez, who, being duly sworn, stated that his name is as aforementioned; he is forty-two years of age; married; herder; native of Bacerac; resident of Granados, and is transiently at this place. Being examined as to the parts concerning him in foregoing affidavits, which parts were read to him, he testified that on the 21st of December, at about 7 o'clock, a. m., affiant, being at the ranch of Capadehuache, heard more than one hundred shots fired from towards Nacozari; that shortly thereafter he witnessed the arrival at the ranch, in complete disorder, of an American force under command of Mr. Crawford, composed of forty packers, four officers, and one hundred Chiricahua and White Mountain Indians; that they came from American territory by way of Nacozari; that these went into camp there, and that after a short while parties of Indians by themselves began to leave camp; that some shooting was then heard, and that he went into the woods to see what happened; that when he had gone a short way he again heard rifles fired; that he met an Indian loaded with beef-tallow, who, being asked by affiant as to what he was doing, replied "Nothing;" that at that moment 6 other Indians approached, whereupon he returned to the ranch; that on the following day, the 22d, after the Indians had broken camp and left in the direction of Hueverache, he went out into the neighborhood accompanied by herders Ignacio Robles and Toribio Coronado; and that in reconnoitering the neighborhood of the ranch they found the carcasses of 19 head of cattle, 15 of them being the property of Venancio Durazo, 1 of Fadrique Arvisu, 1 of Jesus Timbres, 1 of Julian Moreno, and 1 of the American, Jorge Woodward; that it is certain that those Indians killed said cattle, because, besides having seen them, their tracks and movements gave evidence; that of said cattle only 2 were made use of by them being cut up for beef and the remnants covered up with hay: that the rest were left on the ground and were spoiled; that the cattle were of large size, four years and upwards of age, and fat, each being worth perhaps more than \$20. Further deponent said not.

This testimony being read to him he declared it correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

## TORIBIO CORONADO.

Thereupon, in obedience to subpoena, appeared before this court citizen Toribio Coronado, who, being duly sworn, stated that his name is as aforementioned; he is fifty-one years of age; married; herder; native of Sahuaripa, and resident of Grandados, being now transiently at this place.

Being examined as to the parts concerning him in the foregoing affidavits, which parts were read to him, he testified that on the 21st of last December, at about 7 o'clock a. m., being at the ranch of Capadehuache, he heard on the road from Nacozari more than one hundred shots fired; that a short while afterward he saw the American force under command of a Mr. Crawford, composed of 40 packers, 4 officers, and 100 Chiricahua and White Mountains Indians, arrive at said ranch in complete disorder, going into camp there; that soon thereafter some firing was heard and that Antonio Enriquez went out to see what had happened; that the latter returned and told him that the Indians were killing stock; that on the following day, the 22d, the force broke camp and took the road toward Hueverache; that immediately then he, Antonio Enriquez, and Nacho Roblez saddled their horses and went to reconnoiter the neighborhood and found 19 head of cattle shot and killed by the Indians, the cattle being the property of—Venancio Durazo, 15; the American, Woodward, 1; Mrs. Jesus Timbres, 1; Fadrique Arvisu, 1, and Julian Moreno, 1; that affiant has not the least doubt that the tame Indians committed these depredations, because he heard their shots and followed their tracks and observed their movements, all tending to prove these as their acts; that all these cattle were of large size and fat, and would be worth \$20 each.

This testimony being read to him, he declared it to be correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

## CATARINO GRIJALVA.

On the same date, in obedience to subpoena, appeared before this court citizen Catarino Grijalva, who, being duly sworn, stated that his name is as above written; he is forty-eight years of age; married; farmer; native and resident of this town. He testified that on the 21st of December, last year, at about 11 o'clock a. m., there arrived at Hueverache an American force under command of Capt. Emmet Crawford, composed of 40 packers, 4 officers, and 100 Chiricahua and White Mountains Indians; that they encamped upon his fields without asking permission of him or the authorities; that said field was planted with corn; and without further ado the animals of said force were turned loose upon his field, eating off the whole crop; that as aforesaid, the force encamped there on the 21st; that on the afternoon of the same day he approached Captain Crawford and asked him by whose leave he interfered with his fields and destroyed his crops; that the captain not understanding Spanish, did not answer him; that affiant then went to the captain's interpreter, a certain "Concepcion," and asked of him the same question, adding that "now they had used up his crop, he hoped they would not also destroy his fences"; that then the interpreter communicated this to the captain, who thereupon ordered his Indians not to destroy the fences, but that the orders were useless, as during the four days they remained there all his crops were used up and all his fences destroyed; that during the same time they also went into neighboring fields, and in the field of Mannel Tranco said tame Indians stole about 1,000 plants of sugar-cane; that the captain was duly informed of all these depredations, but that no steps were taken to put a stop to them; that on the 25th of December they broke camp on the fields of Hueverache and passed through Guasabas in the direction of Grandados; that he then overtook the captain and again demanded to be indemnified, whereupon the captain, through his interpreter, told him that upon his return he (the captain) would pay him all damages and something more; that so far affiant has received nothing; that he places his damage at about \$100. Further deponent said not.

This testimony being read to him he declared it correct, but did not sign the same, being unable to write.

JOAQUIN MONGE.

LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses*

## CECILIO LEIVA.

On the same date, in obedience to subpoena, appeared before this court citizen Cecilio Leiva, who, being duly sworn, stated that his name is as above written; he is forty-six years of age; married; farmer; native and resident of this town. Being examined as to the part concerning him in the communication of the municipal president, which part was read to him, he testified that on the 21st of last December, at about 11 o'clock, a. m., an American force under command of Capt. Emmet Crawford, composed of some forty packers, besides four American officers, and one hundred Chiricahua and White Mountain Indians, arrived at Hueverache, encamping on a field belonging to Catarino Grijalva; that shortly after their going into camp several small parties of Indians began leaving camp to steal from other fields, among them one belonging to affiant and another to Francisco Leiva; that in Grijalva's field they destroyed all the fencing for firewood, and pastured their animals on the crop, totally destroying the same; that in affiant's field the Indians stole about 800 stalks of sugarcane, valued at \$35; that said force was encamped at Hueverache until the 25th of the same month, and that during this time they committed depredations there; and that, as said place is only about 1 mile distant from this town, all day long small groups of these tame Indians used to enter the town; that one night—that of the 23rd—two Indians of one of these groups became intoxicated in the town, and began to be troublesome and disorderly in a manner that the policemen of the town could not restrain them, but had to apply to the commander of the customs guards, Emilio Kosterlitzky, who by accident happened to be in the town, to assist the police and residents; that said Kosterlitzky, with 4 of his soldiers and the policemen, went to re-establish order, when they were attacked by the Indians with stones and clubs, and by one of the Indians with a dagger; that Kosterlitzky then ordered they be fired upon, when one was wounded and another captured, which latter was handed over to the town authorities; that on the same night, that of the 23rd, Captain Crawford, having learned of the troubles and disorders caused by the Indians, directed Lieutenant Maus to ask for the Indian detained by the authorities, which Indian was delivered to him after being fined \$5; that this fine was not paid until less than a month ago, when it was paid by an American who came to this town to disinter the body of Captain Crawford. Further deponent said not. This he signed, adding that the American force broke camp at Hueverache on December 25, and left in direction of Granados.

The testimony being read to him, he declared it to be correct.

So certified.

JOAQUIN MONGE.

CECILIO LEIVAS.

LUIS ARCE,

F. MORENO TERAN,

*Court Witnesses.*

## EULOGIO PERALTA.

Thereupon appeared before this court citizen Eulogio Peralta, who, being duly sworn, stated that his name is as above written; he is thirty-two years of age; married; policeman; native and resident of this town. Being examined as to the parts referring to him in the communication of the municipal president, and in foregoing affidavits, which parts were read to him, he testified that on the 23rd of last December, at about 7 o'clock p. m., there were several parties of the tame Indians walking about town somewhat drunk, and that one of them began to make disturbances and to commit disorder, which compelled affiant to endeavor to restrain them, but he was unable to check them, as the Indians showed themselves rebellious; that he then went to the municipal president and informed him what was happening, and the latter went to request assistance of a Mr. Kosterlitzky, who with four of his guards and affiant went to restrain the Indians, when the latter attacked them; whereupon Kosterlitzky fired upon them, wounding one Indian and capturing one other, which latter was given into the hands of the town authorities; that the Indians with the American forces were in camp at Hueverache, whence they came daily to town, got roaring drunk, and made disturbances; that on the morning of the 25th, the whole of said forces of Captain Crawford, with their Indians, passed through this town, going in the direction of Granados. He stated that he knows nothing further about it.

This testimony being read to him, he declared it correct and signed the same.

So certified.

JOAQUIN MONGE.

EULOGIO PERALTA.

LUIS ARCE,

F. MORENO TERAN,

*Court Witnesses.*



## FRANCISCO LEYVA.

In continuation, citizen Francisco Leyva appeared before this court, who, being duly sworn, stated that his name is as above written; he is twenty-seven years of age; bachelor; farmer; native and resident of this town. Being examined as to the part concerning him in the affidavit of Cecilio Leyva, which part was read to him, he testified that it is true; that at 11 o'clock a. m., on December 21, last year, an American force composed of forty packers, four officers, and one hundred tame Chiricahua and White Mountains Indians, under command of Capt. Emmet Crawford, arrived at Hueverache; that they encamped there in a field belonging to Catarino Grijalva, destroying during the days of their stay the latter's crops and fences; that during the same time parties of those Indians frequently went into other fields, causing destruction, among them one belonging to affiant, and others to citizens Francisco, Manuel, and Cecilio Leyva; that in affiant's field the Indians destroyed the fences, and stole all the sugar-cane there was, which he calculated would have made about 3 cargass (about 12 bushels) of unclarified sugar; that the captain was duly informed of these public and notorious thefts, but that no stop was put to them, although this was promised; that the Indians were encamped at Hueverache until the morning of the 25th, when they passed through this town in the direction of Granados; that, as he stated, to his certain knowledge the Indians committed those depredations without being restrained by their commanders, and that some of them even came into town on the night of the 23d, and committed many acts of disturbance while they were drunk, forcing their way into houses, especially into those where women were alone, and taking from them what they wanted; that the policemen of the town, not being able to check them, asked for aid of a Mr. Kosterlitzky, who happened to be in the town with some soldiers of the customs guards; that the Indians rebelled against these and attacked them with stones while he (Kosterlitzky) was trying to bring them to order, one of the Indians being armed with a dagger; that these disturbances did not cease until an order was given to fire upon them, when one of the Indians was wounded, and one other was captured and placed in jail, whence he was liberated, because (to his knowledge) one of the officers of the Indians offered to pay the fine of \$5 imposed by the authorities. Further deponent said not.

This testimony being read to him, he declared it correct and signed the same.

So certified.

JOAQUIN MONGE.  
FRANCISCO LEYVA.

LOUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

On the same date, it was noted that the affidavits of citizens Manuel Franco and Pedro Montoya could not be taken, as they are absent from the town; and also, that this court and its *personnel*, in compliance with its instructions, now goes to the town of Granados, there to continue this investigation.

So noted.

MONGE.

GRANADOS, March 27, 1886.

It being made to appear, in the official report made by the municipal president of this town, on the 27th of last December, to the prefect of the district, that after the passage through this town of a force of Americans and Indians under command of Captain Crawford, he (the municipal president) ordered the field justice to go out with some residents to reconnoiter on the road taken by said force, a subpoena will be issued to said field justice to give evidence, and to state the names of the residents who went with him on that occasion.

Thus the judge of the primary court decreed and signed in presence of his witnesses.

So certified.

JOAQUIN MONGE.  
LUIS ARCE,  
F. MORENO TERAN,  
*Court Witnesses.*

Foregoing order was complied with on the same date.

MONGE.

## GENARO DURAZO.

On the same date, in obedience to subpoena, appeared before this court, field justice of this place, citizen Genaro Durazo, who, being duly sworn, stated that his name is as above written; he is thirty-eight years of age; married; farmer; native and resident of this place. Being examined as to the part concerning him in the report of the municipal president, which part was read to him, he testified that it is true; that, on the 25th of last December, at about 10 o'clock a. m., there passed through this town, in the direction of Bacadéhuache, an American force composed of 40 packers, 4 officers, and 100 tame Indians of the Chiricahua and White Mountains tribes; that a short while after said Indians had passed, affiant received orders from the municipal president of this place to immediately reconnoiter the road by which they went; that he did so, accompanied by citizens Vicente and Julian Durazo; and that on the road to Bacadéhuache, about 2 leagues from this town, some 500 yards to the left of the road, they found in a bunch 6 head of cattle that had just been shot and killed by the tame Indians, and had been cut up for beef; and that near these were some fires at which said Apaches had roasted beef; that 3 of these cattle belonged to Ciriaco Luna, 1 to Evangelista Noriega, 1 to Mrs. Antonia Gutierrez, and 1 to Vicente Durazo; that he then suspended his reconnoitering because it was becoming dusk, and with his companions returned to this town, reporting the facts to the municipal president; that on the following day, the 26th, he again went out with citizens Evangelista Noriega, Ramon Durazo, and Nacario Saure, to finish the reconnoitering; that he followed the same road as on the day before, and about 100 yards from the first-mentioned bunch of dead cattle encountered yesterday, and about 150 yards off the road, he found 5 more head of cattle also killed by the same tame Apaches on the day before; that of these 1 belonged to Evangelista Noriega, 1 to Ramon Durazo, 1 to Policarpo Moreno, 1 to Jesus Durazo, and 1 to Mrs. Antonia Gutierrez; that he then kept on, but found no more dead cattle, as far as the "Palmita," which is about 4 leagues from this place, and whence they returned; that there is no doubt that these cattle were killed by the tame Apaches, because he followed their tracks leading from the road to the place of the killing, and he had also noticed small parties of 4 or 5 Indians, detach themselves from the main body; that they came across the trail of those Indians, and he and his companions saw 4 of them taking a direction towards the hill (or ridge) of Cacalote, and they saw others taking different directions; affiant believes the cattle killed by said tame Apaches were worth at least \$20 each, taking into consideration their condition and size. Further deponent said not.

This testimony being read to him, he declared it correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

GRANADOS, *March 27, 1886.*

Let subpoenas be issued to citizens Julian and Vicente Durazo, Evangelista Noriega, Nacario Jaure, and Ramon Durazo, and let their affidavits be taken regarding their knowledge of the facts. And as it appears, from the official reports of the municipal president of Bacadéhuache and of the commissary police of Nacosari, that said tame Apaches committed depredations in those places also, therefore let subpoenas be issued, through the local judge of Bacadéhuache, to citizens Marcelo López, Miguel and Rosalio Galaz, José Romero, Severiano Silos, Juan Valenzuela, Benito Garrolo, and Indalecio Hurtado, because by said official reports they are stated to be cognizant of said depredations.

Monday, the 29th instant, at 11 o'clock a. m., is hereby appointed as the time to take such affidavits.

Thus the judge of the primary court decreed and signed the same in presence of his court witnesses.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

On the same day foregoing order was executed.

MONGE.

## JULIAN DURAZO.

On the same day, in obedience to subpoena, appeared before this court citizen Julian Durazo, who, being duly sworn, stated that his name is as above stated; he is seventy-five years of age; married; servant\*; native of Moctezuma, and resident of this town. Being examined as to the part concerning him in the foregoing affidavit, which part was read to him, he testified that it is true; that on the 25th of last December the field justice of this place, citizen Genaro Durazo came to his house and told him that the municipal president, in consequence of the passage through the place of a force of Americans and tame Chiricahua and White Mountain Indians had ordered him to reconnoiter the road taken by them toward Bacadéhuache; that therefore the justice requested affiant to accompany him in the discharge of this duty; that affiant agreed to do so, and with said justice and Ramon Durazo took the road traveled by the Indians; that about 2 leagues from this place, and about 500 yards to the left of the road, they found 6 head of cattle butchered, and close thereto some fires, at which it could be seen said Indians had roasted beef; that of these cattle 3 belonged to Ciriaco Luna, 1 to Evangelista Noriega, 1 to Mrs. Antonia Gutierrez, and 1 to Vicente Durazo; that owing to its becoming dusk they suspended their search and returned to this town, reporting the result to the municipal authorities; that on the following day, the 26th, to his knowledge, said justice again took the same road to finish the search, but affiant was unable to go with him on account of sickness; that the tame Apaches undoubtedly killed those cattle, because affiant and companions followed the trail of the Indians leading directly to the place; that furthermore he could notice on the road where some parties of Apaches separated themselves from the main body and took different directions, one of them toward the hill (or ridge) of Cacalote; that the cattle which they found killed were worth at least \$20 each, taking into consideration their condition and size. Further deponent said not.

This statement being read to him, he declared it to be the truth, and as given by him. He did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

## RAMON DURAZO.

On the 29th of the same month, in obedience to subpoena, appeared before this court citizen Ramon Durazo, who, being duly sworn, states that his name is as above written; he is twenty-seven years of age; married; stock-raiser; native and resident of this place. Being examined as to the parts concerning him in the foregoing affidavits, which parts were read to him, he testified that they are true; that on the 25th of last December the field justice of this place, citizen Genaro Durazo, came to his house and stated that he was directed by the municipal president, in connection with the passage through this town of an American force, under command of Captain Crawford, with the tame Chiricahua and White Mountain Indians, to make a reconnaissance on the road taken by said force and which leads to Bacadéhuache; that the justice therefore requested affiant to accompany him in the discharge of that duty; that affiant agreed to do so, and in company with said justice and Julian Durazo took the road pursued by the Indians; that about 2 leagues from this place on the said road, and about 500 yards to the left thereof, they found 6 cattle butchered, which had been shot and killed by the Indians; and near there they found some fires, at which it was evident said Indians had roasted beef; that of these cattle 3 belonged to Ciriaco Luna, 1 to Evangelista Noriega, 1 to Mrs. Antonio Gutierrez, and 1 to Vicente Durazo; that night coming on, they returned to this town, reporting the facts to the municipal authorities; that he knows that on the following day, the 26th, said justice again took the same road to finish the search, but that affiant was unable to accompany him, being prevented by his business; that undoubtedly the tame Indians killed those cattle, as this party followed the trail of the Indians, which led directly to the place of the killing; that furthermore it was noticed by his party, when it struck the road, that some small parties of the tame Apaches separated from the main body and took different directions, one of them towards the hill (or ridge) of Cacalote; that the cattle

\* Criado; should probably read criador (stock-raiser).



which they found killed were worth at least \$20 each, taking into consideration their condition and size. Further deponent said not.

This statement being read to him, he declared it to be correct and signed the same  
So certified.

JOAQUIN MONGE.  
RAMON DURAZO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

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VICENTE DURAZO.

On the same date appeared before this court citizen Vicente Durazo, who, being duly sworn, stated that his name is as above written; he is thirty-three years of age; married; stock-raiser; native and resident of this place. Being examined as to the part concerning him in the affidavit of the field justice, which part was read to him, he testified that it is true that on the 26th of last December, in connection with the passage through this town of an American force under Captain Crawford with their tame Indians, the said field justice came to his house and stated that he was ordered by the municipal president of this place to reconnoiter the road to Bacadéhuache, which said force had taken, for the purpose of determining if the Indians accompanying the same had committed any depredations; that the justice detailed affiant to accompany him; that thereupon he went out with the field justice and Messrs. Nacario Saure and Evangelista Noriega to make the search ordered; that they took the road toward Bacadéhuache, which had been pursued by the American force; that about 2 leagues from this town and about 500 yards to the left of said road they found 6 head of cattle butchered, which had been shot and killed by the tame Indians on the preceding evening; that near to this were the fires at which said Indians had apparently roasted beef; that of those cattle 3 belonged to Ciriaco Luna, 1 to Evangelista Noriega, 1 to Mrs. Antonio Gutierrez, and 1 to affiant; that they continued the search, and about 500 yards from the first bunch they found 5 more head of cattle, also killed by the Indians; of these latter cattle 2 had been cut up for beef and 3 left untouched; 1 of them belonged to Evangelista Noriega, 1 to Ramon Durazo, 1 to Policarpo Moreno, 1 to Jesus Durazo, and 1 to Mrs. Antonia Gutierrez; that they (affiant and companions) continued in the discharge of this duty, searching about 2 leagues more of the country, but found no other depredations; that it is unquestionable that the tame Indians killed those cattle, because their trail led directly to the place of killing; that furthermore, it was noticed by them on the road that small groups of four or five of the tame Apaches had separated from the main body; that he saw the tracks of four of them taking the direction toward the hill (or ridge) of Cacalote and the others going in different directions; that the 11 cattle killed by the tame Apaches were worth \$20 each, taking into consideration their size and condition. Further deponent said not.

This affidavit being read to him he said it was correct and that he had nothing to add, whereupon he signed it.

So certified.

JOAQUIN MONGE.  
VICENTE DURAZO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

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EVANGELISTA NORIEGA.

Thereupon, in obedience to subpoena, appeared before this court citizen Evangelista Noriega, who, being duly sworn, stated that his name is as above written; he is forty-two years of age; married; native and resident of this place. Being further examined, he testified that on the 26th of last December the field justice of this place, Genaro Durazo, came to his house, stating he had received orders from the municipal president, in connection with the passage, on the day before, through the town, of the American force under Capt. Emmet Crawford, which force was composed of 40 packers, 4 America officers, and 100 Chiricahua and White Mountains Indians, to make a reconnaissance along the road to Bacadéhuache, taken by said force; that the justice therefore requested affiant to accompany him, which he did; that he and said justice, with Vicente Durazo and Nicario Saure, went out to search the road; that having followed the trail of said tame Indians for a distance of 2 leagues, they found, about 500 yards

to the left of the road, 6 head of cattle, which, on the preceding evening, had been butchered by the tame Apaches, and some fires at which beef had evidently been roasted; that, of these cattle, 3 belonged to Ciriaco Luna, 1 to affiant, 1 to Mrs. Antonia Gutierrez, and 1 to Vicente Durazo; that they continued their search about 200 yards farther up from the dead cattle, and there found 5 others, also killed by the Indians, 2 of them having been cut up for beef and 3 being left untouched; that these belonged, 1 to affiant, 1 to Ramon Durazo, 1 to Policarpo Moreno, 1 to Jesus Durazo, and 1 to Mrs. Antonio Gutierrez; that he has not the least doubt that these depredations were committed by the tame Indians, because their trail was followed up and led to the place of the killing; and that, furthermore, it could be seen that some groups of the tame Apaches had detached themselves from the main body on the road, and had taken an entirely different direction from that pursued by said main force, and that one party of 4 or 5 Indians had headed for the hill (or ridge) of Cacalote; that he is certain that the 11 head of cattle which were shot and killed by the Indians were worth at least \$20 each. Further the deponent said not.

The affidavit being read to him, he declared it correct, but did not sign the same, he being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

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#### MACARIO SAURE.

On the same date, in obedience to subpoena, appeared before this court citizen Macario Saure, who, being duly sworn, stated that his name is as above written; he is thirty-seven years of age; widower; stock-raiser; native of Jalisco, and resident of this place.

Being examined as to the parts concerning him in foregoing affidavits, which parts were read to him, he testified that they are true; that on the 26th of last December, affiant being in his house, the field justice, Genaro Durazo, came to him and said that, in connection with the passage through this town of an American force under command of Captain Crawford, composed of 40 packers, 4 officers, and 100 Indians, he had received orders of the municipal president that, accompanied by some residents, he should go out to search along the Bacadéhuacho road, by which said force went; that the justice invited him to assist in the performance of this duty; and that he and Evangelista Noriega and Vicente Durazo went out to reconnoiter; that, when about 2 leagues from this town, they found 6 head of cattle which the Indians on the preceding day had shot, killed, and cut up for beef; that furthermore, they found near these cattle some fires, at which beef had apparently been roasted; that these cattle belonged, 3 to Ciriaco Luna, 1 to Evangelista Noriega, 1 to Mrs. Antonia Gutierrez, and one to Vicente Durazo; that continuing their search, about 200 yards farther up, they found 5 more dead cattle, 2 cut up and 3 untouched, also shot and killed by the tame Indians; that these latter belonged, 1 to Evangelista Noriega, 1 to Ramon Durazo, 1 to Policarpo Moreno, 1 to Jesus Durazo, and one to Mrs. Antonia Gutierrez; that they continued their search about 2 leagues farther, but discovered no other depredations; that he is certain that without question the tame Indians killed those cattle, because their trail led to the place of the killing, and showed that the Indians had left the road, and that different groups of them had detached themselves from the American forces and had taken different directions, one of them going toward Cacalote; that affiant saw the cattle referred to, and that, judging from their condition and size, each of them was worth at least \$20. Further deponent said not.

This affidavit being read to him, he declared it correct, but did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

F. MORENO TERAN,  
M. MIRANDA,  
*Court Witnesses.*

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#### JUAN DURAZO.

On the same day, in obedience to subpoena, appeared before this court citizen Juan Durazo, who, being duly sworn, stated that his name is as above written; he is thirty-three years of age; married; farmer; native and resident of this place. Being



examined as to the part concerning him in the communication of the municipal president of this place, which part was read to him, he testified that it is true that on December 26, last year, at about noon, he received orders from the municipal president of this town to take 12 men of this town and 12 men from Guásabas, and to proceed to the hill (or ridge) of Cacalote, whence news had come that on the preceding (i. e. the 25th, the tame Apaches had killed 2 persons; that with said force he marched to the hill (or ridge) referred to; that in the evening he arrived at Tinaja, where his force had supper; that there he gave orders to hunt for the trail of the tame Indians over all known outlets. This being done, he continued the march as far as to the foot of said hill (or ridge) and near the last station he found the corpse of Francisco Lavandera; that thereupon he placed the greater part of the force in defensive positions, and ordered the rest to hunt for the other corpse, which was found at a short distance and recognized as young Tomas Moreno; that he took up the remains and had them buried at that place, and that he then returned to the foot of the hill (or ridge), where he remained until daybreak of the 27th, when he gave orders to re-examine the trails upon the hill (or ridge) which they saw on the evening before; that following the trails they found 3 donkeys which the same Indians had killed, and some pack-saddles and bundles of sacks which they had scattered about; that these, which had belonged to the victims, they brought with them to this town, whither they came, by Tinaja, with due precautions; that he made his report to the municipal president; that he has not the least doubt that the tame Apaches committed these depredations, because their trail, still "hot," was found in the pass of Tinaja and at other places; that it could be seen clearly that when the Indians went out of Granados on the 25th, a small group of them had detached itself, heading for said hill (or ridge). Further deponent said not.

This affidavit being read to him he declared it correct, and added that Moreno left a brother and a sister living at Guásabas, whose names are Refugio and Ramona, and that Lavandera leaves only his widow, Ramona Moreno, sister of Tomas, who also lives at Guásabas.

Affiant then signed this affidavit.

So certified.

JOAQUIN MONGE.  
JUAN DURAZO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### JESUS LAGUNA.

Thereupon, in obedience to subpoena, appeared before this court citizen Jesus Laguna, who, being duly sworn, stated that his name is as above written; he is twenty-one years of age; bachelor; farmer; native and resident of this place. Being examined in relation to foregoing affidavit, he being one of the force mentioned, he testified that on the 26th of last December, at about noon, he received orders from the municipal president of this town to join others of the neighbors about to make an expedition to the hill (or ridge) of Cacalote, as it was reported that the tame Indians had killed 2 persons there; that some 20 residents of Guasabas and Granados, under command of Juan Durazo, went on this expedition; that they went out and arrived at Tinaja, following the trail of the Indians; that after having supper there, they crossed more trails and so continued their march to the foot of the hill (or ridge) of Cacalote, where they waited for the rising of the moon; that after the moon came out, they followed the trail of the Indians ascending the hill (or ridge), and that at the last station upon it they found the corpse of Francisco Lavandera; that they kept up their search, and at a short distance they found another corpse, that of Tomas Moreno; that they returned to the foot of the hill, and there waited for daybreak; that very early in the morning they again ascended the hill, and near where the corpses were discovered they found 3 donkeys killed by the same Indians, and 3 pack-saddles and 2 bundles of sacks which they had scattered about; that there they buried the corpses, and then with many precautions returned to this city, making report to the municipal president; that affiant has no doubt that it is certain that the tame Apaches committed those depredations, because at Tinaja their trail was still "hot," and showed that a small group of the tame Apaches had branched off from the force of 100 (Indians) which had passed through this town with the American force on the day preceding the depredations. Further deponent said not.

This testimony being read to him, he declared it correct, adding that the deceased Tomas Moreno left relatives, a brother, Refugio, and a sister, Ramona, who live in the

town of Guásabas, and that the only relative left by Francisco Lavandera is his wife, Ramona, sister of aforesaid Tomas, who resides at Guásabas. Foregoing he signed.

So certified.

JOAQUIN MONGE.

JESUS LAGUNA,

M. MIRANDA,

F. MORENO TERAN,

*Court Witnesses.*

### PRIMITIVO ZEPEDA.

On the same date, in obedience to subpœna, appeared before this court citizen Primitivo Zepeda, who, being duly sworn, stated that his name is as above written; he is thirty-three years of age; bachelor; stock-raiser; native and resident of this place. Being examined in relation to foregoing affidavits, he having been one of the residents that accompanied citizen Juan Durazo, he testified that the statements made in their affidavits by citizens Juan Durazo and Jesus Laguna are all true; that on the 26th of last December affiant received a direct order from the municipal president of this town to join some residents of Guasabas and of this place about to make a reconnoissance at the hill (or ridge) of Calalote and its vicinity, because news had arrived that the tame Apaches had killed 2 persons; that at noon of the same day he and said residents went out in the direction of said hill (or ridge) following the trail of the Indians along the road; that arriving at Tinaja supper was ordered, and they also found some trails there; that hereupon they went to the foot of said hill (or ridge), where they waited till the rising of the moon; that when the moon came out they ascended the hill, following the Indians' trail; that arriving at the last station upon the hill they found the corpse of Francisco Lavandera, and at a short distance that of Tomas Moreno; that then they went to the foot of the hill and waited for daybreak, 27th; that when it again became daylight, they reascended the hill and found 3 donkeys killed by the Indians, and 3 pack-saddles and 2 bundles of sacks which the Indians had scattered about; that they interred the corpses there, and then cautiously came back to this town and reported the facts to the authorities; that there is no doubt that the tame Indians committed those depredations, because by their trail in the Cajon de Tinaja it was plain that a small group of Indians had detached itself from the American forces that passed through this town on December 25th. Further deponent said not.

This testimony being read to him, he declared it correct. He did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,

F. MORENO TERAN,

*Court Witnesses.*

### MARCELO LOPEZ.

On the 29th of the same month, in obedience to subpœna, appeared before this court citizen Marcelo López, who, being duly sworn, stated that his name is as above written; he is fifty-six years of age; married; stock-raiser; native and resident of Bacadéhuache, transiently at this place. Being examined as to the part concerning him in the communication of the municipal president of the town of Bacadéhuache, which part was read to him, he testified that it is true; that on the 26th of last December, at about 6 o'clock a. m., there passed through the town of Bacadéhuache an American force, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians, under command of Capt. Emmet Crawford; that this force, on the night preceding that of the 25th, had encamped about two miles from the town at a station called Agua Caliente, where, according to report, they arrived quite late; that after said force had passed through the town of Bacadéhuache, affiant received an order of the municipal president to accompany the field justice and citizens Rosalio Galás, José Romero, and Miguel Galás, who were about to reconnoiter the country where the tame Apaches and American force had been encamped; that they went to Agua Caliente, and there found 2 steers (property of Francisco Valencia) cut up for beef, having been shot and killed by the Apaches; that these are all the depredations committed by them at that place; that said force, with the Indians, on January 21, arriving from Nacoari, again passed through Bacadéhuache, going in the direction of

Bacerac; that in passing the point called the Mesa of Joso, they shot and killed a cow belonging to Francisco Terán; that then they passed on, encamping at a station called Tinaja, whence, on the following day, they took the road leading to Bacerac, without committing further depredations. Further deponent said not.

This testimony being read to him, he declared it correct, but he did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### MANUEL GALAS.

Thereupon, in obedience to subpoena, appeared before this court citizen Manuel Galas, who, being duly sworn, stated that his name is as above written; he is thirty-three years of age; married; stock-raiser; native and resident of Bacadéhuache, transiently at this place. Being examined as to the parts concerning him in the foregoing affidavit and in the communication of the municipal president of Bacadéhuache, which parts were read to him, he testified that it is true; that on the 25th of last December, at dusk, there arrived at a station called Agua Caliente, which is about 2 miles from this town of Bacadéhuache, an American force under command of Captain Emmet Crawford, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians, and encamped there; that on the following day, the 26th, the same force broke camp and passed through the town of Bacadéhuache in the direction of the precinct of Nacori; that on the same day affiant received an order of the municipal president of the place to make, in company with the field justice and Rosalio Galas, Marcelo López, and José Romero, a search of the camping ground and vicinity where above-mentioned force had been encamped; that they went to Agua Caliente, and there found two steers that had been cut up for beef (property of Francisco Valencia), which the tame Indians on the preceding evening had shot and killed; that they then returned to the town of Bacadéhuache and made report of what had happened; that on January 21st the same force, under command of Lieutenant Maus, in a somewhat disorderly manner, passed again through Bacadéhuache, on which occasion, in passing through the Mesa of Joso, the same tame Indians shot and killed a cow, the property of Francisco Teran; after which the force encamped on the road leading to Bacerac, 2 leagues from the town of Bacadéhuache, and thence left on the following day without committing further depredations; that the cattle which were killed, taking into consideration their condition and size, were worth at least \$20 each. Further deponent said not.

This testimony being read to him, he declared it correct, but did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### ROSALIO GALAS.

Thereupon, in obedience to subpoena, appeared before this court the field justice, citizen Rosalio Galas, who, being duly sworn, stated that his name is as above written; he is 36 years of age; stock-raiser; native and resident of Bacadéhuache, transiently at this place. Being examined as to the parts concerning him in the foregoing affidavits and in the communication of the municipal president of Bacadéhuache, which parts were read to him, he testified that they are true; that on December 25th news came to the town of Bacadéhuache that at dusk of that day an American force under command of Captain Emmet Crawford, composed of 40 packers, 4 officers, and 100 tame Chiricahua and White Mountain Indians, had arrived at a station called Agua Caliente, about 2 miles from said town; that the tame Indians with said American force passed through Bacadéhuache on the following day, going in the direction of Nacori, and that on the same day the municipal president of Bacadéhuache ordered affiant that he and citizens Miguel Galas, José Romero, and Marcelo López should reconnoiter where said American force had been encamped; that he and his companions immediately, in obedience to said order, went out, and at the camping ground



indicated they found 2 steers cut up for beef (the property of Francisco Valencia, a resident of Sahuaripa), which steers had been killed by the tame Apaches on the evening before; that he came back to town and reported accordingly to the municipal president; that on January 21, of this year, the said American force came back from Nacori, and passing through Bacadéhuache took the road toward Bacerac; and that about 2 leagues from the first point, at a place called "Mesa del Joso," the tame Apaches killed another head of cattle (property of Francisco Terán); that said American force, under command of Lieutenant Maus, then encamped about 2 leagues from Bacadéhuache, at a place called "Tinaja," whence on the following day, the 22d, the force left toward Bacerac without committing further depredations; that the cattle killed, considering their condition and size, were worth at least \$20 each. Further deponent said not.

This testimony being read to him, he declared it correct, but he did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA.

F. MORENO TERAN,

*Court Witnesses.*

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JOSE ROMERO.

On the same date, in obedience to subpoena, appeared before this court, citizen José Romero, who, being duly sworn, stated that his name is as above written; he is 35 years old; married; stock-raiser; native and resident of Bacadéhuache. Being examined as to the parts concerning him in foregoing affidavits and in the communication of the municipal president of Bacadéhuache, which parts were read to him, he testified that it is true: that on the 25th day of last December news reached the town of Bacadéhuache that at dusk of that day an American force, under command of Captain Crawford, composed of 40 packers, 4 American officers, and 100 tame Chiricahua and White Mountain Indians, were encamped about 2 miles from said town, at a station called Agua Caliente; that on the following day, the 26th, this force passed through Bacadéhuache, going in the direction of the precinct of Nacori; that immediately thereafter affiant received orders of the municipal president of the place to go, together with the field justice and citizens Miguel Galás and Marcelo López, and to search the place where said force had been encamped; that he and his companions made such search and found at Agua Caliente 2 steers (property of Francisco Valencia, a resident of Sahuaripa) which the tame Indians had killed on the evening before; that they then came back to town and so reported to the municipal president; that on the 25th of January, of this year, the same force, under command of Lieutenant Maus, on their return passed again through the town of Bacadéhuache, taking the road leading to Bacerac; that in passing a place known as the "Mesa del Joso" the same Indians killed a cow, property of Francisco Teran, which they left untouched; that then the force arrived at a station called Tinaja, encamping there, leaving thence without committing further depredations, going toward Bacerac; that the cattle killed were worth at least \$20 each, taking into consideration their condition and size. Further deponent said not.

This testimony being read to him he declared it correct; but he did not sign the same, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA.

F. MORENO TERAN,

*Court Witnesses.*

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CASIMIRO GRAJEDA.

On the 30th of the same month, in obedience to subpoena, appeared before this court the commissary of police of Nacori, citizen Casimiro Grajeda, who, being duly sworn, stated that his name is as above written; he is 55 years of age; married; stock-raiser; native and resident of Nacori. Being examined as to the part concerning him in the communication of the municipal president of Bacadéhuache, he testified that it is true that on the 27th of last December news reached the office under his charge, that an American force under command of Captain Emmet Crawford, composed of 40

packers, 4 officers, and 100 Chiricahua and White Mountain Indians, was encamped that day at a place called the "Sancito," 2 leagues distant from Nacori; and that affiant immediately went out to assure himself of the news, and there saw said force; that he then went back to Nacori; and that on the 29th of that month the said Crawford's force broke camp and passed through Nacori and encamped about a league distant at a station called Temosache; that affiant then ordered citizens Severiano, Sieva, Juan Valenzuela, Benito Garrobo, and Indalecio Hurtado to reconnoiter the place where the force had been; and that, having done so, they came and informed him that between Sancito and Nacori they found 8 head of cattle which the tame Indians had shot and killed, they having cut up for beef only one of them; that he so reported to the municipal president of Bacadéhuache; that when the American force passed through Nacori the Indians were in complete disorder, whereupon he ordered above-named persons to also reconnoiter the other road, and that according to their reports no depredations were committed there; that of the 8 cattle mentioned 2 belonged to Mrs. Carmen Escalente, 2 to Guadalupe Quijada, 2 to Gervasio Valencia, 1 to Aristeo Antunes, and 1 to Jesus Hurtado; that Crawford's force was encamped until the 31st, when they went into camp at Basuche, remaining there and making scouts in the direction of Sahuaripa and the Sierra Madre; that on January 21st more than 100 shots were heard in the precinct, in the direction of Temosache; that affiant to discover what was happening, went with 5 men to Temosache, and there found Lieutenant Maus, his interpreter, and 20 to 30 Indians besides; that he approached Lieutenant Maus and requested him to order the Indians to cease firing, which order was given, that subsequently the same Maus, through his interpreter, informed him that Captain Crawford had died in consequence of a wound received by him in an encounter, by mistake, with a force from Chihuahua, and that they had with them the remains to have them interred in this precinct, to do which he requested and I granted a permit; that affiant, accompanied by Lieutenant Maus' interpreter, named Tomas, returned from Temosache to his office, and that while on the road the interpreter narrated to him, that while the American forces were scouting in the Sierra Madre, in pursuit of the hostile Apaches, they attacked the Apaches on January 10, and succeeded in capturing Chief Nané with 9 Indians (men and women); that they then encamped at the place of the attack awaiting peace negotiations with Chief Geronimo, who through a squaw had placed himself in communication with Captain Crawford; but that at daybreak of the 11th a party of national troops from Chihuahua, that was following the trail of the hostile Indians leading to that place, being misled by this confusing state of affairs, opened fire on them (the American force), whereupon both forces became engaged; and that when Captain Crawford noticed that the (Mexican) national troops were making a mistake, he mounted a large rock and by means of raising a white handkerchief tried to make himself known; that the interpreter did the same; but that, as the firing was quite heavy, Captain Crawford received a bullet in the forehead and fell mortally wounded; that then the interpreter, who had also received a shot in the arm, ran calling out loudly to make known who they were; that presently the national troops came to understand that they were attacking the American force of tame Indians, and ceased firing, and approached to let them know that they had made a mistake; that the same interpreter informed him that Crawford died of the wound after lingering 7 days; that, as he has stated before, in accordance with the permit granted Lieutenant Maus, the remains of Crawford were interred at Nacori on the same day, the 21st; that when the American force was coming to the precinct with the remains of the captain between Temosache and Nacori, at a place called "Cuchilla de Mogoyon," the tame Indians shot and killed 3 head of cattle, 1 belonging to Aristeo Antunes, 1 to Guadalupe Quijada, and 1 to Mrs. Isabel Hurtado; that the 11 cattle killed by the tame Indians, were worth at least \$20 each; that on the 22d the American force under command of Lieutenant Maus left Nacori, going in the direction of Bacadéhuache. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.  
So certified:

CASIMIRO GRAJEDA.  
JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### BENITO GARROBO.

On the same date, in obedience to subpoena, appeared before this court the field justice of the precinct of Nacori, citizen Benito Garrobo, who, being duly sworn, stated that his name is as above written; he is thirty-three years of age; married; stock-raiser; native and resident of Nacori. Being examined as to the part concern-

ing him in foregoing affidavit, which part was read to him, he testified that it is true; that on the 27th of last December news reached the commissary's office that an American force under command of Captain Crawford, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians had arrived at a station called Sancito, which is about 2 leagues from said Nacori; which news was true, as the force was actually encamped at said station until the 29th, when they broke camp, passing through the town of Nacori on the same day and again encamping about 2 leagues from a town called Temosache; that immediately after their passing through the town affiant received an order from the commissary of police, that he, with citizens Severiano Silva, Juan Valenzuela, and Indalecio Hurtado should proceed to reconnoiter where the said force had been encamped; that he and companions went to Sancito, where a search failed to discover any depredations; that he then came back to Nacori, following up the trail of the Indians; and that, to one side of the road, they found 8 head of cattle that had been shot and killed by the tame Apaches—only one of them having been cut up for beef, the others being untouched; that of these cattle, 2 belonged to Mrs. Carmen Escalante, 2 to Guadalupe Quijada, 2 to Gervasio Valencia, 1 to Aristeo Antunes, and 1 to Jesus Hurtado; that they kept up the search, but found nothing further; wherefore he and his companions went back to Nacori and reported to the commissary's office; that on January 21, the firing of more than one hundred shots was heard in the direction of Temosache, and that, to his knowledge, the commissary (of police) went out to see what had happened, coming back in a short time with an American, followed by the American force of Indians bringing the body of Captain Crawford, which was interred at Nacori on the same day, the 21st; that, as the Indians arrived in a disorderly manner, the commissary ordered affiant to make another reconnaissance on the Temosache road; that he went out with the same companions, and at a distance of about 1 league off from the road, they found 3 head of cattle that had been shot and killed by the tame Apaches; that they continued their search still further, always on the trail of the Indians, but discovered no further depredations; that he then returned to Nacori and made report to the commissary; that the American force of Indians left Nacori on the 22d, under command of Lieutenant Maus, taking the direction of Bacadéhuache; that the cattle found last belonged, 1 to Guadalupe Quijada, 1 to Aristeo Antunes, and 1 to Mrs. Isabel Hurtado, who are all residents of Sahuaripa; that these cattle, as well as the others killed, were worth at least \$20 each. Further deponent said not.

This testimony being read to him, he declared it correct, but did not sign the same being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,

F. MORENO TERAN,

*Court Witnesses.*

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SEVERIANO SILVA.

Thereupon, in obedience to subpoena, appeared before this court citizen Severiano Silva, who, being duly sworn, stated that his name is as above written; he is forty-four years of age; married; a native of Sahuaripa, and resident of Nacori. Being examined as to the parts concerning him in the foregoing affidavits, which parts were read to him, he testified that they are true; that on the 29th of last December an American force of Indians, under command of Captain Crawford, passed through Nacori, which force, since the 27th, had been encamped at two leagues distance from this place at a point called Sancito; that so soon as said force left for Temosache, the field justice came to his house and told him that by order of the commissary of police affiant should go with him and citizens Juan Valenzuela and Indalecio Hurtado, to reconnoiter where the American force had been encamped; that with those companions he went to Sancito, following the trail of the tame Apaches, and off from the road found 8 head of cattle which said Apaches had shot and killed; that only one of them was cut up for beef and the rest were untouched; that these cattle belonged, 2 to Mrs. Carmen Escalante, 2 to Guadalupe Quijada, 2 to Gervasio Valencia, 1 to Aristeo Antunes, and 1 to Jesus Hurtado; that he and his companions continued their search further, but found no other depredations committed; wherefore they went back to Nacori and made report to the commissary. That on January 21, this year, the same force, under command of Lieutenant Maus, again arrived at Nacori, bringing with them the remains of Captain Crawford, which were interred there; and that, as the Indians entered town in a very disorderly manner, the field justice again ordered him, by direction of said commissary, to make with aforementioned companions a reconnaissance of the road between Nacori and Temosache; that he then went out, follow-



ing the trail of the Indians, and at a short distance off from the road, about 1 league distant from Nacori, they found 3 head of cattle that had been killed by the tame Apaches, being the property, 1 of Guadalupe Quijada, 1 of Aristeo Antunes, and 1 of Mrs. Isabel Hurtado; that he continued the search but found no further depredations, whereupon he retraced his steps to Nacori and made report; that said 11 head of cattle, considering their condition and size, were worth \$20 each; that the force of Maus left Nacori on the 22d by the road leading to Bacadéhuache. Further deponent said not.

This testimony being read to him he declared it correct and signed the same, adding that the owners of said cattle are residents of Sahuaripa.

So certified.

JOAQUIN MONGE.  
SEVERIANO SILVA.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

### INDALECIO HURTADO.

On the same date, in obedience to subpoena, appeared before this court citizen Indalecio Hurtado, who, being duly sworn, stated that his name is as above written; he is sixteen years of age; bachelor; farmer; native and resident of Nacori. Being examined as to the parts concerning him in foregoing affidavits, which parts were read to him, he testified that they are true; that on the 29th of last December there passed through Nacori, going toward Temosache, an American force, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians; that this force had been encamped at Sancito, about 2 leagues distant from the precinct, on the 27th and 28th; that so soon as Captain Crawford's force had passed—which they did in a disorderly manner—the field justice came to him and said he had orders from the commissary (of police) to reconnoiter, with some neighbors, the place where said force had been encamped; that accompanied by the justice himself, and by citizens Severiano Silva and Juan Valenzuela, he made the search as ordered, following the Sancito road over the trail of the tame Indians; that at about 1 league from Nacori, off from the road, they found 8 head of cattle which the Indians had shot and killed, 1 only being cut up for beef and the rest left untouched; that these cattle belonged, 2 to Mrs. Carmen Escalante, 2 to Gervasio Valencia, 1 to Aristeo Antunes, and 1 to Jesus Hurtado; that they continued their search, but found no other depredations, whereupon they returned to Nacori and reported to the commissary; that on January 21 of this year, the same force, under command of Lieutenant Maus, came back by way of Temosache, carrying with them the remains of Captain Crawford, who, as stated, had died in the Sierra 3 days before; and that, as the Indians entered the town in great disorder, the same justice again came to him and ordered affiant to go with him on a reconnaissance on the road which the Indians had followed; that they so reconnoitered over the trail of the Indians, and at a distance of 1 league, more or less, they found 3 head of cattle killed by the Indians, which belonged, 1 to Guadalupe Quijada, 1 to Aristeo Antunes, and 1 to Isabel Hurtado, all of them residents of Sahuaripa; that then affiant returned to Nacori without discovering any other depredations, and made report; that the American force, under command of Lieutenant Maus, left on the 22d of that month, going in the direction of Bacadéhuache, having, on the day before, interred the remains of Crawford. Affiant informs the court that he has no doubt that the tame Apaches killed the 11 head of cattle aforementioned, because their trail was plainly followed, and led directly to the places of the killing; that these cattle, which were large-sized and fat, were worth at least \$20 each. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.

So certified.

JOAQUIN MONGE.  
INDALECIO HURTADO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

### JUAN VALENZUELA.

On the same date, in obedience to subpoena, appeared before this court citizen Juan Valenzuela, who, being duly sworn, stated that he is named as above written; he is fifty-six years of age; married; stock-raiser; native of Sahuaripa; resident of

Nacori. Being examined as to the parts concerning him in foregoing affidavits, which parts were read to him, he testified that they are true; that on the 29th of last December an American force, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians, passed through Nacori; that said force had been encamped about 2 leagues distant from the precinct, at a station called the Sancito; that so soon as said force left for Temosache, the field justice came to his house and told him he had orders from the commissary (of police) to take with him some neighbors and reconnoiter where said force had been in camp; that the field justice, affiant, Indalecio Hurtado, and \* Juan Valenzuela went out, following the trail of the Indians, and about 1 league from Nacori, off from the road, they found 8 head of cattle which had been shot and killed by the tame Apaches, only 1 being cut up for beef, the rest not having been touched; that these cattle belonged, 2 to Guadalupe Quijada, 2 to Mrs. Carmen Escalante, 2 to Gervasio Valencia, 1 to Aristeo Antunes, and one to Jesus Hurtado; that they continued their search, but discovered no other depredations; whereupon they returned to Nacori, and made report to the commissary; that on January 21 of this year, the same force, under command of Lieutenant Maus, coming from the direction of Temosache, again entered the town, bringing with them the remains of Captain Crawford, who was said to have died in the Sierra three days before; and that as the Indians came in a very disorderly manner, the same justice again came to him and told him to go out with him to reconnoiter on the road by which the Indians had come; that they went out following the trail of those Indians, and about a league—more or less—from Nacori, they found three head of cattle which had been killed by the Indians; that these cattle belonged, 1 to Guadalupe Quijada, 1 to Aristeo Antunes, and 1 to Isabel Hurtado, all of them residents of Sahuaripa; that he then returned to Nacori, without discovering further depredations, and made report; that on the 22d of the same month, the remains of Crawford having been interred on the preceding day, this American force, under command of Lieutenant Maus, left in the direction of Bacadéhunche; affiant informs the court that he has no doubt that the tame Indians killed the 11 cattle aforementioned, because he plainly followed their trail leading directly to the places of killing; that these cattle, considering their condition and size, were worth at least \$20 each. Further deponent said not.

This testimony being read to him, he declared it correct, but did not sign it, being unable to write.

So certified.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

GRANADOS, *March 30, 1886.*

It appearing from the official communication of the municipal presidents of Bacerac and Bavispe, that citizens Ignacio Duvila, Francisco Loreto, Francisco Zosaya, Felix Reynaldo, and Antonio Samaniego, Antonio and Luis Gomez, made claims upon Lieutenant Maus for some animals which had been stolen of them by the tame Apaches; and that Major Kosterlitzky was present on these occasions; therefore, by this day's mail, let subpoenas be issued to them, through the local judges of those towns, that they shall present themselves before this court, to make affidavits, on the 3d day of coming April at 8 o'clock a. m.

Thus the judge of the primary court decreed, and signed before his witnesses.

JOAQUIN MONGE.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

Thereupon, the foregoing order was complied with.  
So certified.

JOAQUIN MONGE.

EMILIO KOSTERLITZKY.

On April 3d, same year, in obedience to subpoena, appeared before this court citizen Emilio Kosterlitzky, who, being duly sworn, stated that his name is as above written; he is thirty-two years of age; married; is in the military service; native of the Rus-

\* Evidently a mistake of Mexican copyists. Should read "Severiano Silas."—F. C. P.

sian Empire, and resident of Bavispe. Being examined as to the parts in the communications of the municipal presidents of Guasabas, Bacerac, and Bavispe concerning him, which parts were read to him, he testified that they are true; that on the 23d of last December, he being in the town of Guasabas, there came to him the municipal president of that place, requesting assistance in bringing to order 7 Indians belonging to the American force encamped 1 mile from said point, under command of Captain Crawford, who were going about committing misdemeanors and outrages; whereupon he, with 4 soldiers of the custom house guards and the policeman of the place, went to arrest the culprits; that the Indians made resistance, attacking them with stones and one with a dagger; and that he then ordered fire opened on the latter, aiming at him and hitting him; that he also succeeded in capturing one of the other six and delivered him to said municipal authorities; that owing to the darkness of the night they were unable to follow the other five; and that he then returned to his house; that on the following day he left Guasabas and went to Moctezuma, where he remained four days, and then went to Bavispe; that, being at the last-named place on the 28th of January, he received a message from Lieutenant Maus, requesting him to meet the lieutenant on the road from Bacerac to Bavispe; that he complied with the request and went out to meet the lieutenant, which he did near Bacerac; that thence they came to Bavispe, and the conversation turned on the death of Captain Crawford; Lieutenant Maus told him on the road that, at daybreak of January 11th, they found the rancharia of the hostile Indians on the banks of the river Haros, near the Espinazo del Diablo (Devil's Backbone), where they at once attacked the hostiles, and after some rapid firing, Chief Nané, with one other Indian "buck," 4 squaws, and 3 papooses, came to him; Gerónimo, with 24 other Indians, having escaped; that Gerónimo, through a squaw, informed Captain Crawford that he, with his companions, would present themselves to General Crook; that the force of Apache scouts went into camp in the same rancharia, and that at daybreak of the following day they were attacked by a force of national troops from Chihuahua, whose commander was Santa Ana Perez; that Captain Crawford at once became aware that the Chihuahua force attacked them through a mistake, and wanted to make himself known, for which purpose he went forth unarmed and with a white handkerchief in one hand, calling out that he was the commander of an American force, but that during one of the first volleys he received a mortal wound in the head, from the effect of which wound he died seven days afterwards in the Sierra, and was buried three days afterwards at Nacori; that the American chief guide, a certain Horn, and 3 of the Indian scouts, were also wounded; that within a few moments the firing ceased, and Lieutenant Maus stepped forward to speak with Captain Santana Perez; that of the latter's force 1 officer was killed and 5 soldiers were wounded, the latter receiving surgical attendance of the doctor accompanying the American force; that Lieutenant Maus, to facilitate the return march of the national troops of Chihuahua, gave them 6 mules, of which 4 were provided with pack-saddles and 2 with saddles; that both forces then left the place; affiant stated that before their arrival at Bavispe this force was joined by some residents of Bacerac, and that in passing through this town residents of it also joined them; affiant stated that he arrived with the American force at the "Cañada de Janos," where said force encamped at night on their way to American territory, and that in this camp said residents from both towns made claims upon Lieutenant Maus for some animals which they claimed and proved to be their property and which had been stolen and carried off by the same tame Apaches, but that when Lieutenant Maus acknowledged them to be their property and attempted to deliver the animals to their owners, the Indians opposed themselves and would not permit the intentions of the lieutenant to be carried out, but that Lieutenant Maus promised said residents that so soon as he should arrive at Matriz, he would gather up these animals and send them to the owners, he, at the same time, taking a description of the animals; affiant then took his leave of Lieutenant Maus and returned to Bavispe. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.  
So certified.

JOAQUIN MONGE.  
EMILIO KOSTERLITZKY.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses*

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IGNACIO DÁVILA.

On the same date, in obedience to subpoena, appeared before this court citizen Ignacio Dávila, who, being duly sworn, stated that his name is as above written; he is twenty-nine years of age; married; stock-raiser; native and resident of Bacerac. Being



examined as to the part concerning him in the communication of the municipal president of Bacerac, which part was read to him, he testified that it is true; that on the 28th of last January there passed through Bacerac an American force under command of Lieutenant Maus, composed of 40 packers, 3 American officers, and 100 Chiricahua and White Mountain Indians; that when he saw the Indians they were mounted on a mule belonging to him, on another belonging to Francisco Loreto, on a donkey the property of Jesus Escalante, and on another belonging to Francisco Zosaya; that they, the owners, so reported to the municipal president, who immediately ordered his horse to be saddled, and told affiant to come along and follow the force to reclaim these animals; that affiant went out from Bacerac together with said municipal president and citizens Francisco Loreto and Francisco Zosaya; that they overtook said force before arriving at Bavispe, and went to Lieutenant Maus offering him proof that the latter promised that so soon as he should arrive at the "Cañada de Janos," where he meant to encamp, he would take the animals from the Indians and deliver them to the owners; that upon such promise they went with said Maus to the designated point; that in passing through Bavispe said force was joined by citizens Felix Reynaldo, Antonio Samaniego, and Luis Gomez, who also wished to reclaim some animals; that upon arrival at the Cañada they made their claims, and upon due proof, requested the animals be delivered to them; that Lieutenant Maus went to the Apaches and asked for the animals, but that, as the tame Apaches made threats to rebel, he abstained from insisting, explaining to claimants the grave condition of affairs in which he found himself, and promising that so soon as he should arrive at Matriz, where he could make himself respected, he would take the animals from them (the Indians) and return the same to the owners, at the same time taking a description of such animals; that with this understanding they returned to Bacerac and Bavispe respectively; the said force remaining in camp at the Cañada, thence to resume their march to American territory; that after this the Indians committed no further depredations, either there or at other places. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.  
So certified.

JOAQUIN MONGE.  
IGNACIO DÁVILA.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

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#### FELIX SAMANIEGO.

On the same date, in obedience to subpoena, appeared before this court, citizen Felix Samaniego, who, being duly sworn, stated that he is named as above written; he is forty-one years of age; married; stock-raiser; native and resident of San Miguel de Bavispe. Being examined as to the parts concerning him in the official reports of the municipal presidents of Bacerac and Bavispe, which parts were read to him, he testified that they are true; that on January 28th of this year, there passed through Bavispe an American force, composed of 40 packers, 3 officers, and 100 Chiricahua and White Mountain Indians—more or less—under command of Lieutenant Maus; and that when affiant saw that they were mounted on a mare and mule that belonged to him and which, together with 18 other animals, the same Indians had stolen of him on a previous campaign, he went to the authorities and informed them of what he had seen; and was told to join citizens Ignacio Dávila, Francisco Loreto, and Francisco Zosaya, who also were going to reclaim some animals, and that they all should make their claims known to Lieutenant Maus; in accordance with this order, affiant joined aforesaid persons, who claimed 2 mules and 2 donkeys; that they passed on to the Cañada de Janos, where said force went into camp, spoke to Lieutenant Maus, and proved their claims to the animals; that the Lieutenant, wishing to deliver them, went over to the Indians and asked for the animals, when the Indians refused to surrender them; that the Indians became highly incensed at the request of Lieutenant Maus, declined to recognize his authority, and insulted him; that Lieutenant Maus then told affiants that so soon as he should arrive at Matriz, where he could make himself respected, he would collect these animals and send them to the owners, for which purpose he took the description of the animals. Affiant stated to the court that the same tame Indians, while on an expedition last September, stole of him the 20 animals referred to, which is proven by the fact that the 2 which he reclaimed of Lieutenant Maus were of those that in said month were stolen of him; to make this clear, he exhibited a true copy of a certificate which, in connection with an investi-

gation into said theft, he had issued to him, the former by the judge of primary court of the district, the latter by the local judge of the town. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.

So certified.

JOAQUIN MONGE.  
FELIX SAMANIEGO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### LUIS GOMEZ.

Thereupon, in obedience to subpoena, appeared before this court citizen Luis Gomez, who, being duly sworn, stated that his name is as above witten; he is thirty-six years of age; married; stock-raiser; native and resident of San Miguel (de Bavispe), congregation of Bavispe. Being examined as to the parts concerning him in the communications of the municipal presidents of Bacerac and Bavispe, which parts were read to him, he testified that they are true; that on January 28 of this year there passed through Bavispe an American force, under command of Lieutenant Maus, composed of 40 packers, 4 American officers, and 100 Chiricahua and White Mountain Indians (a few more or less); that when affiant saw the Indians they were mounted on 4 mules belonging to him, which had been stolen by the same Indians on the expedition which they made on September 27 last year. He went to the municipal president and reported what he had seen, whereupon that functionary ordered him to join the municipal president of Bacerac and citizens Ignacio Dávila, Francisco Loreto, and Francisco Zosaya, who were going to said force to reclaim some animals, and that they should altogether make their claims. Affiant and Felix Samaniego then joined the persons named, and they arrived at the Cañada de Janos, where the force of Maus went into camp; that there they at once made their claims, exhibiting to Lieutenant Maus documents and their brands, which proved their ownership of these animals; that Maus, being convinced of and respecting their rights of ownership, tried to deliver them and at once went over to where the Indians were; but the latter opposed the delivery, disregarded the authority of Maus, applying to him opprobrious epithets, wherefore he abstained, telling affiant and companions in what dilemma he found himself, and promising them that so soon as he should arrive at Matriz, where he could make himself respected, he would collect the animals and send them to the owners, for which purpose he took a description of these stolen animals. Affiant stated that, as he said before, on the 27th of last September, during an expedition made by the same tame Indians on that date, they stole of him, at San Miguel, 20 animals, of which aforementioned 4 were part, as he stated before. To make this clearer and as complete proof of his statement, he requested that the certificate exhibited by Felix Samaniego be referred to as covering his case also. Further deponent said not.

This testimony being read to him, he declared it correct and signed the same. So I (the judge) certify, and state that affiant added that he has neither heard nor knows of any other depredations committed by the tame Apaches in Bacerac and Bavispe on their passage.

JOAQUIN MONGE.  
LUIS GOMEZ.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

#### ANTONIO SAMANIEGO.

On the same date, in obedience to subpoena, appeared before this court citizen Antonio Samaniego who, being duly sworn, stated that his name is as above written he is forty-one years of age; married; stock-raiser; native of Bavispe; resident of Bacerac. Being examined as to the parts concerning him in the communications of the municipal presidents of Bacerac and Bavispe, which parts were read to him, he testified that they are true; that on January 28th of this year there passed through Bavispe an American force under command of Lieutenant Maus, composed of 40 packers, 3 officers, and 100 Chiricahua and White Mountain Indians (a few more or less);

that as Indians of said force were mounted upon some animals belonging to residents of Bacerac and Bavispe, affiant, Luis Gomez and Reinaldo Samaniego, went to the municipal president of Bavispe and informed him that the tame Indians were mounted on 4 mules belonging to Luis Gomez, 1 mule and 1 mare belonging to Felix Samaniego, 1 mule belonging to Ignacio Dávila, 1 mule belonging to Francisco Loreto, and 2 donkeys belonging to Francisco Zosaya; that as these animals had been stolen of them, they wished to recover them; that the said (municipal) president told them to join the municipal president of Bacerac, who with several neighbors was going to reclaim the 4 animals last mentioned; that they so joined and went to the "Cañada de Janos;" that there they immediately informed Lieutenant Maus that said animals were theirs, and that they produced the proofs; that Maus wanted to deliver the animals to the owners, and went over to where the Indians were for the purpose of collecting the animals; that the Indians objected to this, refusing to recognize the authority of Lieutenant Maus, and applying to him insulting language; that Maus then explained to affiant and companions in what circumstances he was placed, that owing to the mutiny he could not now deliver these animals; but he gave them his word that as soon as he should arrive at Matriz, where he would make himself respected, he would take the animals from the Indians and send them to the owners; that with this promise they all returned to Bavispe, as did also Kosterlitzky, who was with them; and they left the American force at the "Cañada de Janos," from which place the latter continued their march toward American territory. Further deponent said not.

This testimony being read to him, he declared it correct, and signed the same.  
So certified.

JOAQUIN MONGE.  
ANTONIO SAMANIEGO.

M. MIRANDA,  
F. MORENO TERAN,  
*Court Witnesses.*

On the same date, this investigation having been concluded, the original papers were delivered to General Palomares in compliance with orders.

MONGE.

[Seal.]

SUPREME COURT, SONORA,  
*Hermosillo, April 19, 1886.*

I, Gonzalo A. Morayla, chief justice of the supreme court of the State, do certify that the signature of the judge of the primary court of the district of Moctezuma, Joaquin Monge, as affixed to the foregoing papers, is the one as used by him in affixing his signature to all his official documents.

And I hereby so certify.

Given at Hermosillo, on the 19th of April, 1886.

G'ZALO A. MORAYLA.

SEAL.]

REPUBLIC OF MEXICO,  
CONSTITUTIONAL GOVERNMENT OF THE  
FREE AND SOVEREIGN STATE OF SONORA.

I, Luis E. Torres, constitutional governor of the State of Sonora, do certify: That the foregoing signature of citizen Gonzalo A. Morayla, chief justice of the supreme court of the State, is the one he uses in affixing his signature to all his public documents, and that due faith be given this instrument I issue this certificate.

Given at Hermosillo, April 19, 1886.

LUIS E. TORRES.

Attest:

RAMON CORRAL,  
*Secretary.*

44 F R



(RÉSUMÉ.)

SEAL.]

REPUBLIC OF MEXICO,  
CONSTITUTIONAL GOVERNMENT OF THE  
FREE AND SOVEREIGN STATE OF SONORA.

Comprehending the grave importance of the mission intrusted to you with the greatest confidence, after the sundry conferences we held, it manifestly became our duty to endeavor to have it made clear what depredations had been committed by the tame Apaches who accompanied Capt. Emmet Crawford on his expedition against the hostile Apaches within the territory of this nation. It also seemed proper to ascertain clearly how the said captain came to be killed. With this object in view you went to the seat of government of the district of Moctezuma and began with customary activity to collect the official reports on file in the various public offices of the district, which reports are copied on pages 1 to 13 of the documents transmitted by José Maria Torres, prefect of Moctezuma.

From said reports it stands proven that the tame Indians committed all kinds of outrages and attacks: by killing cattle without consent of the owners and without paying the value therefor; by offending against the persons of citizens and of the authorities, as happened at Gueverache by murdering, as they did, citizens Francisco Lavandera and Tomas Moreno; and finally by stealing and burning, as they did, the sugar-cane and fences in the fields of citizens Catarino Grijalva, Manuel Francisco, and Cecilio Leiva, Pedro Montoya, and Miguel Arvizu. To this must be added the most complete insubordination when the American lieutenant, Maus, wanted to return to their owners some stolen animals, but was prevented from doing so by the threatening attitude assumed by the Indians.

In reference to the death of Captain Crawford, it must be observed that he encamped at the very place where he had captured Chief Nané, and as the (Mexican) forces from Chihuahua were then following the trail of the latter, it is clear that in the attack they believed they had to deal with hostile Indians; that Crawford was killed in the ensuing fight through a positive mistake; that such it was is directly confessed by the interpreter Tomas, and is further proven by the fact that after the occurrence Lieutenant Maus, in a friendly spirit, furnished Perez beasts of burden to carry off the wounded of the latter's command.

On March 23 you went to the judge of the primary court at Moctezuma and requested him to hold an investigation in due legal form, and that functionary issued orders that the necessary testimony be taken with great care, not only at Moctezuma but also at Guasabas and Granados, the points of the most notorious occurrences, and whither the judge ordered the *personnel* of the court to proceed. A simple perusal of the proceedings demonstrates the evident truth of the statements in the reports transcribed by the prefect of Moctezuma, and they give confirmation that the killing of Crawford was due to a mistake, declared to be such, not only by the interpreter Tomas, but also by Lieutenant Maus himself, who so stated to the commissary of police of Nacori, Casimiro Grajeda, and to Emilio Kosterlitzky. In my opinion it appears from the proceedings—

1. That in the last 3d of December, 1885, a force composed of 100 Chiricahua Indians, 40 packers, and 3 American officers, under command of Captain Emmet Crawford, entered the national (Mexican) territory.

2. That the members of such force either with or without the consent of their commander, certainly by his toleration, murdered two Mexican citizens, killed cattle, appropriating the spoils against the will of the owners, stole quantities of sugar-cane, burned the fences of several fields, outraged a number of citizens, and resisted by force of arms the public authorities, one instance of which is recited by Captain Emilio Kosterlitzky.

3. That the degree of insubordination on the part of the Indians was such that they did not obey their commanding officer, Lieutenant Maus, who ordered them to return to their owners several stolen animals which the Indians had with them.

4. That by having committed aforesaid depredations any authorities were liable to confound said force with hostile Apaches; and for this same reason Capt. Santana Perez, who commanded the national forces from Chihuahua, in attacking them, as he did, in the rancharia of Nané where the Indian Geronimo had been taking refuge, did not thereby commit any imprudent or punishable act; that the death of Captain Crawford was the result of a simple error; that is also to be remarked that the force commanded by Perez had 1 man killed and 5 men wounded.

After the foregoing summary I deem it proper, in my humble judgment, to inform you that you have in due and satisfactory manner fulfilled your delicate mission, the only omission being that the signature of the judge of the primary court was not "legalized" by the chief justice of the supreme court of the State, and those of the latter and of the prefect of Moctezuma by the governor, which is necessary in case the proceedings are to be made use of at the capital of the Republic.

This is a *dictamen* issued by me in compliance with my duty; and I assure you of my consideration and my special and distinguished appreciation.  
Guaymas, April 11, 1886.

ANTONIO JAUREGUI Y BARRIE,

*Licenciado.*

General CRISPIN S. DE PALOMARES, *Present.*

The foregoing is a true copy of the original papers.

Mexico, June 10, 1886.

By order of the chief clerk.

A. C. VASQUEZ,

*Chief, Section of America.*

No. 311.

*Mr. Bayard to Mr. Morgan.*

No. 204.]

DEPARTMENT OF STATE,

*Washington, June 22, 1886.*

SIR: I have received your No. 242, of the 12th instant, accompanied by the report of the Mexican Government in regard to the killing of Capt. Emmet Crawford, at Teopar, Mexico, lately.

I have at once brought the original report to the attention of the Secretary of War, and I desire to offer you the Department's compliments and an expression of its thanks, for your prompt dispatch of the voluminous matter.

I am, &c.,

T. F. BAYARD.

No. 312.

*Mr. Brigham to Mr. Porter.*

No. 45.]

UNITED STATES CONSULATE,

*Paso del Norte, Mexico, July 1, 1886. (Received July 19.)*

SIR: I have the honor to communicate the following facts in regard to the arrest and imprisonment of Mr. A. K. Cutting, an American citizen, by one of the courts in this city.

Mr. Cutting is a resident of Paso del Norte, and engaged as an editor of a newspaper called "El Centinela," in a recent edition of which he published some strictures upon one Emigdio Medina, who proposed engaging in the newspaper business also.

For this offense Mr. Cutting was arrested and brought before the court to answer. Under the law here, when the parties agree to and sign a "reconciliation" the case was dismissed, which was done in this instance, Mr. Cutting being required by the court to publish it in his paper, which he did.

On the 18th day of June Mr. Cutting proceeded across the Rio Grande River to the United States, to El Paso, Tex., and published a card in the El Paso Herald, in which he reiterated his former charges, and makes some others, branding Medina's conduct as "contemptible and cowardly," &c., copy of which card I inclose, marked No. 1.

When Mr. Cutting returned to Paso del Norte he was again arrested, presumably at the instance of Medina, and taken before the judge of the second court. Before this court Mr. Cutting was refused counsel and an interpreter, both of which he requested, and with closed doors, no one being present but the judge, the court interpreter, and the accused, the so-called examination of the case was proceeded with, which resulted in the committing of Mr. Cutting to jail.

At this stage of the proceedings, and before he was taken to jail, Mr. Cutting notified the court that he claimed the protection of his Government, and would refer the matter to the American consul, which he did by the following communication to me, dated June 23, 1886, marked No. 2.

On the receipt of this communication I proceeded to the office of the principal interpreter of the court to ascertain the exact charges against Mr. Cutting, and was informed that he was arrested for the publication in the El Paso (Texas) Herald: that he was examined upon this charge alone, and committed to jail on the same. I suggested that the court acted without jurisdiction, and had done a wrong to Mr. Cutting, to which the interpreter replied that if the judge had made a mistake in the case it was in the power of the prosecuting attorney to dismiss prosecution when the case came up, which he thought he would do the next morning.

I then wrote a note to Mr. Daguerre, the partner of Mr. Cutting in the newspaper, and engaged his services to see the prosecuting attorney and have the case dismissed. The result was that the attorney left the impression that the case would be dismissed the next day, which was the 24th day of June. On the morning of that day (being confined to bed by sickness) I sent my clerk to the court room to ascertain what was done in the case, and, in company with Mr. Daguerre, they called at the court room, where they found the judge, the prosecuting attorney, and the official interpreter. The prosecuting attorney notified them that he could do nothing *on that day*, as it was a legal holiday, and they returned and so reported to me.

Believing that the authorities would take no action in the case, and release Mr. Cutting, on the morning of the 25th of June I dictated from my sick bed a formal communication to the judge, demanding his release upon the ground that the court was wholly without jurisdiction of the matter, and instructed my clerk not to deliver the letter if Mr. Cutting was released. He found the court in session; the prosecuting attorney put in an appearance for a while and left the court, taking no action whatever in the case. My clerk then handed the judge my communication, copy of which I herewith inclose, marked No. 3.

To this communication his honor never even deigned a reply, and Mr. Cutting still languishes in jail, having been thus confined for more than one week. Bail was refused him, which he was prepared to give in any reasonable amount.

Thus it will be seen that I have used every means in my power for the release of this prisoner, without avail. That he is confined without the warrant or shadow of law, I take it there will be no question. If this fact be conceded, it seems meet and proper for the Department to take the matter in hand and demand an immediate release of the prisoner, and a full indemnity for the outrage.

I would here suggest that the parties culpable in this matter are the judge who issued the order for the arrest and illegal detention of the accused, one Regino Castañeda, and the prosecuting attorney, one José Maria Sierra, who had it in his power to have dismissed the case, and



who still has that power, but refuses to exercise it. Both of said officers should be deposed as unworthy the places they fill.

I will further state that I have demeaned myself throughout with every proper courtesy and respect to the authorities in this matter, and urged Mr. Cutting to do likewise, and to obey all the orders and decrees emanating from the court, which he has done. That the court has so treated me, personally or officially, does not so clearly appear, and the failure to reply or take any notice of my official communication is a matter of which the Department is fully capable of judging, and will be prepared intelligently to act.

From the very inception of the case I am satisfied there has been no desire or intention to do Mr. Cutting justice, and it has been boasted that they can keep him in jail for six months or a year if they see proper to do so.

The claim that the 24th day of June was a legal holiday was a mere subterfuge, and was, in point of fact, untrue, the mayor's court being in session, and the post office and custom-house kept open the usual hours during the day. \* \* \*

I herewith inclose the affidavit of A. K. Cutting, marked No. 4; affidavit of Mr. Daguerre, marked No. 5; affidavit of Mr. Henry G. Turner, marked No. 6, substantiating the facts set forth in this dispatch. Also extracts from the El Paso Daily Times and Daily Tribune, as an index of public sentiment on this subject.

I have written thus plainly and pointedly, because I am fully persuaded that the necessities of the case demand it.

I am, &c.,

J. HARVEY BRIGHAM,  
*Consul.*

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NOTE.

MATAMOROS, *July 7, 1886.*

Consul Brigham is a lawyer, has been a judge, and is a man of much ability and experience. I fully concur in what he says in this case as to the Mexican courts in general. A reading of my reports on previous cases will show that I have said substantially the same things over and over again. With this comment I submit the case to the Department.

WARNER P. SUTTON,  
*Consul-General.*

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[Inclosure 1 in No. 45.]

ADVERTISEMENT.—A CARD.

EL PASO, TEX., *June 18, 1886.*

*To Emigdio Medina, of Paso del Norte:*

In a late issue of El Centinela, published in Paso del Norte, Mexico, I made the assertion that Emigdio Medina was a "fraud," and that the Spanish newspaper he proposed to issue in Paso del Norte was a scheme to swindle advertisers, &c. This morning said Medina took the matter to a Mexican court, where I was forced to sign a "reconciliation."

Now, I do hereby reiterate my original assertion, that said Emigdio Medina is a "fraud," and add "dead-beat" to the same. Also, that his taking advantage of the Mexican law, and forcing me to a "reconciliation" was *contemptible and cowardly*, and in keeping with the odorous reputation of said Emigdio Medina. And should said Emigdio Medina desire "American" satisfaction for this reiteration, I will be pleased to grant him all he may desire, at any time, in any manner.

A. K. CUTTING.

[Inclosure 2 in No. 45.]

*Mr. Cutting to Mr. Brigham.*PASO DEL NORTE, MEXICO,  
*Wednesday, June 23, 1886.*

SIR: For an alleged offense committed in Texas, United States of America, I have been arrested and jailed in Paso del Norte, Mexico, by a Mexican judge. Now, as an American citizen, I place myself under the protection of yourself as United States consul.

I am, &amp;c.,

A. K. CUTTING.

[Inclosure 3 in No. 45.]

*Mr. Brigham to judge of the second court, Paso del Norte.*CONSULATE OF THE UNITED STATES OF AMERICA,  
*Paso del Norte, Mexico, June 25, 1886.*

SIR: I have the honor to officially communicate with you in regard to the arrest and imprisonment of A. K. Cutting, an American citizen, by your order.

I have been informed by the official interpreter to your court that Mr. A. K. Cutting was arrested, examined, and incarcerated for an offense (if offense at all) committed in the State of Texas, United States of America, which was the publication of a card in the El Paso, Texas, Herald.

It is scarcely necessary for me to call the attention of your honor to the fact that for an offense committed in the United States your court cannot possibly have any jurisdiction. Therefore the arrest and detention of Mr. Cutting in jail is wholly unwarranted and oppressive, and in violation of one of the sacred principles of American liberty. This communication is for the purpose of making a formal demand upon your honor for the immediate release of Mr. Cutting, which I do in the name of the United States Government, which I have the honor to represent at this point.

Trusting that you will comply with my request and petition in his behalf, and order his immediate release,

I am, &amp;c.,

J. HARVEY BRIGHAM,  
*Consul.*

[Inclosure 4 in No. 45.]

*Affidavit of A. K. Cutting.*

Before me, J. Harvey Brigham, United States consul at Paso del Norte, Mexico, on this 1st day of July, 1886, personally came and appeared Augustus K. Cutting, who, being duly sworn, deposes and says as follows, to wit:

My name is Augustus K. Cutting; I am an American citizen, born in the State of New York, on the 30th day of August, 1841, and am forty-five years of age.

I am and have been a resident of the city of Paso del Norte, Mexico, for the past eighteen months, off and on, and am engaged as editor and proprietor of the weekly newspaper called El Centinela.

I had a disagreement with one Emigdio Medina, and on the 18th day of June, 1886, I published a card in the El Paso (Texas) Herald, in which I made some strictures on the said Medina. The annexed copy of said card is correct. For this publication in the Texas paper I was arrested on the 23d day of June, 1886, and taken before one Regino Castañeda, judge of the second court of this city. When before the court I asked the privilege of counsel and an interpreter, both of which were denied me, and the said judge (including all other parties, except the official interpreter, one police officer, and one Mexican, and myself) proceeded with closed doors to investigate the case, which he did solely by asking me questions which I refused to answer, claiming that the card having been published in the United States, he had no jurisdiction.

At the conclusion of the examination the judge notified me that I would be held to answer to the charge of having published the card in the Texas paper, and that I would have to go to jail. At this point I claimed the protection of the United States Government, and so informed the court, and wrote a letter to Hon. J. Harvey Brigham, United States consul, informing him of the fact. The court refused me bail,

which I could at any time have given, and I went to jail, where I have been incarcerated since the 23d June, 1886, in a filthy, loathsome prison.

During the day I am allowed the freedom of the court yard, or inclosure of the prison, but at night I am locked up with all the other prisoners, of every grade and stamp, in the same room, some 18 by 40 feet, with only one door, which is locked at night, making it a closed room in every respect, there being no other means of ventilation. The room is filthy and loathsome, with only a ground floor. No bed clothing of any kind has been furnished me, and but for the kindness of friends outside I would have to sleep on the bare ground in all this filth, as other prisoners have to do.

I am allowed six telacos, Mexican money, per day (equal to eight and one-half cents American money) upon which to subsist, and would have suffered for food but for assistance and food from the outside.

Sworn to and subscribed before me this day.  
[L. S.]

AUGUSTUS K. CUTTING.

J. HARVEY BRIGHAM,  
United States Consul.

[Inclosure 5 in No. 45.]

*Affidavit of A. N. Daguerre.*

Before me, J. Harvey Brigham, United States consul at Paso del Norte, Mexico, came and appeared, on the 1st day of July, 1886, Mr. A. N. Daguerre, who, being duly sworn, deposes and says as follows, to wit:

I am personally well acquainted with A. K. Cutting, and know him to be an American citizen. I am engaged with him as partner in the publication of a newspaper called El Centinela. I know that he was arrested and imprisoned for publishing a card in the El Paso (Texas) Herald, June 18, 1886, reflecting upon Mr. E. Medina. I was present in the court-room and heard the judge announce these facts in reply to questions asked by Mr. D. J. Sarback, clerk to the United States consul. I am myself a Mexican, and speak the Spanish language, and knew exactly what he stated. The judge stated emphatically that Mr. Cutting was not in jail for contempt of court, but for the publication of the card in the El Paso (Texas) Herald. I was present in the court-room, June 24, 1886, when we hoped to have Mr. Cutting released, as I had been informed that the prosecuting attorney would probably dismiss the case.

The prosecuting attorney informed everybody present that he could do nothing in the case that day, claiming that it was a legal holiday. I do not understand that it was a legal holiday, and all the other courts were in session, and the custom-house and post-office were open on that day. I was present in court when bail was refused Mr. Cutting by the judge. I know that he is able to give bail in any reasonable amount and by some of the wealthiest men in the city. As long as I have known Mr. Cutting he has been a peaceable and law-abiding citizen, and diligent and attentive to his business. Never knew him to be in any other difficulty. I have visited him in jail daily since his imprisonment, and know it to be a loathsome and filthy place. I know that at night he is locked in a room with from six to eight other prisoners, and when the door is locked there are no other means of ventilation. It is an adobe house, almost air-tight, and has a dirt floor. He is allowed six Mexican tolacos per day upon which to subsist (equal to eight and one-half cents American money), and it is necessary to furnish suitable food from the outside.

He was not furnished with any bedding (not even a blanket), and would have had to sleep on the ground or a bench if bedding had not been furnished him by his friends.

I am thirty years of age, and born in this city, and am a married man.

A. A. DAGUERRE.

Sworn to and subscribed before me on the day and date above written.

[L. S.]

J. HARVEY BRIGHAM,  
United States Consul.

[Inclosure 6 in No. 45.]

*Affidavit of H. G. Turner.*

Personally came and appeared before me, J. Harvey Brigham, United States consul at Paso del Norte, Mexico, on this 1st day of July, 1886, Mr. H. G. Turner, who, being duly sworn, deposes and says as follows, to wit:

I am personally well acquainted with A. K. Cutting, and know him to be an American citizen, and that he is engaged in the newspaper business in this city. I was pres-



ent in court when it was announced by the judge, through the official interpreter, that Mr. A. K. Cutting had been arrested for publishing a card in the El Paso (Texas) Herald, June 18, 1886, reflecting upon Mr. E. Medina; that he had been examined and was being held on that charge. I frequently visited him in prison, and know that it is a loathsome, filthy place, with a dirty ground floor, and that it smells very badly, and that he is incarcerated with eight or ten other prisoners, all in one room at night. These prisoners are in jail for various offenses, and some of them dirty, filthy creatures. I know that he would have had no bedding (not even a blanket) unless they had been provided by friends outside, and that I personally provided these things for him. Mr. Cutting informed me that he was allowed only six Mexican tolas a day (equal to about 8½ cents in American money) upon which to subsist. I have been personally attending to the matter of sending his meals to him daily, knowing the absolute necessity therefor. When the prisoners are locked in said room at night, it is entirely closed up, and there are no means of ventilation left. It is a close adobe house, nearly air-tight.

It is an exceedingly unwholesome and filthy place. I know that Mr. Cutting is able to give bond in almost any amount by the best men in this city. I am satisfied, from my knowledge of this case, that the arrest and imprisonment of Mr. Cutting is mainly for the purpose of oppressing and humiliating him, and I will state that this is the general impression. I have been residing in this city for the past three years, and am an employé of the Mexican Central Railway.

H. G. TURNER.

Sworn to and subscribed before me on the day and date above written.

[SEAL.]

J. HARVEY BRIGHAM,  
United States Consul.

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[Inclosure 7 in No. 45.—Newspaper extract.]

*Another Mexican outrage.*

Another case of the bad faith of the Mexican officials toward American citizens is instanced by the treatment of A. K. Cutting by the authorities of Paso del Norte.

A review of the circumstances by which Cutting was brought in contact with the Mexican law was given in the Times of Wednesday, but the offense for which he was arrested on Tuesday seems to have been misunderstood by him at the time, as he stated to a Times representative that it was the ridiculous manner in which he published the "reconciliation" which he had been compelled to sign by the suit of Emigdio Medina. Since then it has transpired that the arrest was made on account of the publication about Medina in last Sunday's Herald. When this fact was developed at his trial on Wednesday, he informed the court which had refused his request to be allowed to employ counsel that he would invoke his rights as an American citizen and throw himself on the protection of United States Consul Brigham. Accordingly he communicated with Judge Brigham, who at the time was unwell, and the judge, with his characteristic zeal, in spite of his ill health, called on the magistrate who had committed Cutting to jail, and insisted on his release from custody.

The magistrate informed the consul that if a mistake had been made in sending Cutting to jail to await his trial, the district attorney was empowered to order his release. To the district attorney he went accordingly, and that functionary told him that Cutting should be allowed to sleep at the house of Mr. Daguerre that night, instead of in jail, as had been ordered, and that his trial would come off in the morning. This, it seems now, was only a ruse to get rid of the consul, for late on Wednesday evening Cutting was carried off to jail in spite of the assurance to the contrary, and has been there ever since.

Consul Brigham, upon hearing of this breach of faith, insisted yesterday morning upon the prisoner's release, but was informed that it was a legal holiday, and no action could be taken, though the day was not observed by any of the other courts, all of which transacted business, and the consul believes the holiday was merely a subterfuge.

He will this morning make a formal demand as United States consul on the magistrate, who occupies the same relative position as a justice of the peace in this country, for the release of Cutting, and will forward a report of the case to the Department of State at Washington. The offense for which Cutting is in jail was committed in the United States, and to the State of Texas alone he is amenable for it; the idea of punishing a man for an offense committed in a foreign country being purely Mexican.

It is on this ground that Consul Brigham will proceed, and it is to be hoped that he can compel the authorities with which he is contending to do justice to his countryman.

[Inclosure 8 in No. 45.—Newspaper extract.]

*More Mexican atrocities.*

The antipathy of the Mexican Government and its people in general towards Americans is again illustrated in the case of Mr. Charles Merkley, the worthy station agent of the Mexican Central at Chihuahua, who was imprisoned last week at that place and denied bond for defending himself from an attack made by a *pelado* who became enraged because he did not see fit to turn over freight to him without a written order, in accordance with the instructions of the company in every instance. He struck Mr. Merkley first, and the offense of the latter consisted in resisting the blow. Mr. Scott, United States consul at that point, up to the present has seen fit to make no intercession in behalf of Mr. Merkley as a citizen of the United States. He enjoys the reputation among the Americans of Chihuahua of being a "veritable chump," who is wedded to a Mexican, and, of course, thoroughly in accord with Mexican ways.

In Paso del Norte we happen to have a most efficient consul, Judge Brigham, who has ever been alive to his duty as a representative of this Government, and if his report to Washington in regard to the audacious interference with the liberty of American citizens by the authorities of Paso del Norte meets with no attention on the part of the powers that be, we might as well dispense with such official appendages to our Department of State and throw ourselves upon the mercy of our persecutors, or else redress our wrongs as best we can as a community.

Mr. Cutting, the editor of *El Centinela*, for publishing an article on this side of the river, languishes in their bastille, a place of filth and dirt, where thieves and murderers would more than expiate their crimes in lingering a single night; and this is Mexican justice meted out to a loyal citizen of a land upon whose escutcheon there lingers no stain, and whose past history, replete with heroic deeds, has made her a star among nations, her only fault being her leniency towards this unappreciative neighbor, who has mistaken sympathy for her weakness for fear, and shows her gratitude by flaunting insult after insult in the very face of our Government. A few palliating words from the city of Mexico cannot make reparation for such flagrant outrages. There are no extenuating circumstances in these cases. Unless our citizens are protected, of what value are our treaties?

[Inclosure 9 in No. 45.—Newspaper articles.]

*The Cutting case.*

Regino Castañeda, the judge of the second court of Paso del Norte, a diminutive specimen of humanity, who is weighted down with the high functions of "*el juicio*" and wears the dignity of his petty office with more pomp and circumstance than the Czar of Russia, and before whom it was Mr. Cutting's "*mí la suerte*" to be arraigned, became incensed at the American consul, Judge Brigham, who, in sending his official request that Mr. Cutting should be liberated, deemed it fit to say that he was informed by the official interpreter, instead of saying he was informed by his honor, the high muck-a-muck, the all-potent *juez*, through said interpreter; and upon such quibbling he has procrastinated and sought the opportunity to exhibit his power. The interpreter seeing that this only involved the changing of a few words, took the responsibility upon himself to change the document, and then his honor again was piqued because he did not wish it known that he had imparted any information of an official character to a United States consul, and wished the document changed again.

At this juncture Mr. Daguerre intercepted and took the document back to Judge Brigham, who has been exceedingly ill and is now confined to his room. The latter reproved the interpreter severely for changing an iota of the document, and refused to have any further parlay with his majesty, Castañeda, but will write to Washington for immediate instructions on the matter and see if Uncle Sam will forever submit to such insults, this time from a petty little *juez segunda* in a frontier town, in a republic that would crawl in its hole at the first command "to arms!" given by this Government.

This is not the first occasion of the kind, and it is about time Mexico should be taught to respect this Government. The fault is with the Government in not exacting reparation for all such flagrant breaches of the comity that should exist between neighboring and friendly nations. The supineness of the Government in the matter of the killing of Captain Crawford is enough to totally destroy the respect for this nation in Mexico. When an English subject is in any way abused in Mexico the home Government immediately exacts reparation. In one case an Englishman's horse was taken and he was obliged to walk to town a distance of a few miles. Not less than \$1,000 were exacted and paid.

When this Government respects itself sufficiently to protect its citizens in a foreign country an end will be made of these outrages, and not until then.

Meanwhile Mr. Cutting remains in custody at the mercy of the court. He will have a big show for damages for false imprisonment if the Government will condescend to take notice of his case. The contempt of court, for which he is held, was committed in United States Territory, and his imprisonment is entirely without cause or precedent.

A. K. Cutting, of the Centinela, of Paso del Norte, is still confined in the Mexican jail on what every fair-minded man must consider a frivolous and unfounded charge. The Mexicans are revenging themselves on him for an offense he committed on this side of the river, on American soil. This is an unjustifiable outrage. Although Mr. Cutting has during his journalistic career on this and the other side of the river never exhibited any very friendly spirit towards this paper, still the Times feels constrained to say that his imprisonment is an unqualified outrage. He is an American citizen, and entitled to protection against frivolous and undeserved imprisonment. We trust that Judge Brigham, our consul, will succeed in interesting the State Department at Washington in his case and have ample reparation exacted.

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No. 313.

*Mr. Brigham to Mr. Porter.*

No. 46.]

UNITED STATES CONSULATE,  
*Paso del Norte, Mexico, July 3, 1886. (Received July 20.)*

SIR: I have the honor to inform you that after I had finished my dispatch No. 45, in relation to the Cutting case, I received on that day (the 1st of July) a communication from the judge of the court to whom I addressed my note, which purports to be an answer to the same, but, however, without any date.

I inclose herewith a translation of said communication, for the information of the Department.

I am, &c.,

J. HARVEY BRIGHAM,  
*Consul.*

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[Inclosure in No. 46.—Translation.]

*Judge Castañeda to Mr. Brigham.*

In answer to your favor of this month I have the honor to state to you that all public officers for criminal cases are prohibited by a special law to give any information in regard to the criminal cases that are up before the court to people that have no legal intervention in those cases, the more so when, according to the "International Rights" of Calvo, consuls have no jurisdiction, either civil or criminal, in cases concerning their countrymen. (Book 10, paragraph 490, page 614, volume 1.) All of the above refers to Mr. Cutting, in consequence of which I cannot order his release in any but the forms prescribed by the laws of this country.

I remain, &c.,

R. CASTAÑEDA.

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No. 314.

*Mr. Jackson to Mr. Bayard.*

No. 266.]

LEGATION OF THE UNITED STATES,  
*Mexico, July 8, 1886. (Received July 16.)*

SIR: The inclosed copies of note addressed by me to Mr. Mariscal, and of his reply thereto, with translation of the latter, will indicate the action I have felt myself called upon to take, in the matter of the impris-



onment at Paso del Norte of Mr. A. K. Cutting, an American citizen. Having learned from the United States consul, Mr. Brigham, that the Department had been fully advised by him of the affair, I shall take no further step in the matter unless I be instructed by yourself to do so.  
I am, &c.,

HENRY R. JACKSON.

[Inclosure 1 in No. 266.]

*Mr. Jackson to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,  
*Mexico, July 6, 1886.*

SIR: I am in receipt of an official communication from J. Harvey Brigham, esq., consul of the United States at El Paso del Norte, accompanied by affidavits of several persons, from which it appears that, on the 23d of June last, Mr. A. K. Cutting, an American citizen of respectable character, was imprisoned in that city, by order of the judge of the second court, Hon. Roque Castañeda; that the place of his incarceration is "loathsome and filthy"; "that he is locked up with eight or ten other prisoners \* \* in jail for various offenses \* \* in one room 18 by 40 feet, with only one door, which is locked at night, making it a close room in every respect, there being no other means of ventilation. The room is filthy and unwholesome, with only a ground floor."

The affidavits further establish the facts that Mr. Cutting is not only able to give ample security from the best and wealthiest men of the city for his appearance to stand his trial, but that he actually offered such bail and it was refused; that he thereupon applied to the United States consul for protection, which Mr. Brigham undertook to extend in a respectful note addressed to the judge, but that his interposition met with contemptuous silence, and that Mr. Cutting has been retained in jail despite of it.

The affidavits further show that the only offense charged against him is the publication of a "card," addressed "to Emigdio Medina, of Paso del Norte," in a newspaper published in El Paso, which reflects upon the character of the latter.

It is not my purpose in this note to discuss the question whether a Mexican court can take jurisdiction of an offense committed upon the soil of Texas, nor to enter into the merits of the controversy between Mr. A. K. Cutting on the one hand, and Mr. Emigdio Medina on the other. I learn that these matters have been submitted by Mr. Brigham, the consul, to the Department of State at Washington. My object is simply to direct the attention of your excellency to the fact that an American citizen, of respectable character, charged with no serious crime, but with acts which, even if he be guilty, constitute the simplest of misdemeanors, is now undergoing a very severe punishment before conviction, and after offering the best of security for his appearance to stand his trial; and that his health, and even his life, are placed and held in jeopardy, despite of the efforts of an official representative of his country in his behalf. But for this serious aspect of the case I should have awaited instructions from my own Government before approaching your excellency on the subject, and do so now only for the purpose of praying that proper relief may be extended to Mr. Cutting at the earliest moment and through the speediest practicable channel.

I seize, &c.,

HENRY R. JACKSON.

[Inclosure 2 in No. 266.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, July 7, 1886.*

MR. MINISTER: I have the honor to acknowledge receipt of your excellency's communication, dated the 6th instant, relative to the imprisonment in Paso del Norte of Mr. A. K. Cutting, and to state that by advice of the President I to-day address the governor of the State of Chihuahua recommending him to see that prompt and due justice be administered, to the alleviation of the rude situation in which Mr. Cutting is found, as well as all else permitted by the laws.

Promising to communicate to your excellency as soon as received the reply of the said governor, it pleases me to renew, &c.,

IGNO. MARISCAL.

No. 315.

*Mr. Brigham to Mr. Porter.*

[Telegram.]

UNITED STATES CONSULATE,  
*Paso del Norte, July 17, 1886. (Received July 19.)*

Cutting still in prison; nothing done by local authorities. Can't immediate unconditional release *be* demanded?

BRIGHAM,  
*Consul.*

No. 316.

*Mr. Bayard to Mr. Jackson.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 19, 1886.*

You are instructed to demand of the Mexican Government the instant release of A. K. Cutting, a citizen of the United States, now unlawfully imprisoned at Paso del Norte.

BAYARD.

No. 317.

*Mr. Bayard to Mr. Jackson.*

No. 221.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1886.*

SIR: After reading the telegrams and dispatches (copies of which I inclose for your information) of Mr. J. Harvey Brigham, United States consul at El Paso, Mexico, and also your No. 266, dated the 8th instant, relating to the case of Mr. A. K. Cutting, I telegraphed you on the 19th instant as follows:

You are instructed to demand of the Mexican Government the instant release of A. K. Cutting, a citizen of the United States, now unlawfully imprisoned at Paso del Norte.

By the documents before me the following facts appear:

On June 18 last A. K. Cutting, a citizen of the United States, who for the preceding eighteen months had been a resident, "off and on," of Paso del Norte, Mexico, and as to whose character for respectability strong evidence has been adduced, published in a newspaper of El Paso, Tex., a card commenting on certain proceedings of Emigdio Medina, a citizen of Mexico, with whom Mr. Cutting has been in controversy. For this publication Mr. Cutting was imprisoned on the 22d of June last, at El Paso del Norte, in Mexico. Such a publication would not, even had it been made in Mexico, be the subject of criminal prosecution in that country, according to the Roman common law there in force, nor of any adverse governmental action, unless, perhaps, for the single purpose of requiring security in some small sum to keep the peace. But the pa-

per was not published in Mexico, and the proposition that Mexico can take jurisdiction of its author on account of its publication in Texas is wholly inadmissible and is peremptorily denied by this Government. It is equivalent to asserting that Mexico can take jurisdiction over the authors of the various criticisms of Mexican business operations which appear in the newspapers of the United States. If Mr. Cutting can be tried and imprisoned in Mexico for publishing in the United States a criticism on a Mexican business transaction in which he was concerned, there is not an editor or publisher of a newspaper in the United States who could not, were he found in Mexico, be subjected to like indignities and injuries on the same ground. To an assumption of such jurisdiction by Mexico neither the Government of the United States nor the governments of our several States will submit. They will each meet out due justice to all offenses committed in their respective jurisdictions. They will not permit that this prerogative shall in any degree be usurped by Mexico, nor, aside from the fact of the exclusiveness of their jurisdiction over acts done within their own boundaries, will they permit a citizen of the United States to be called to account by Mexico for acts done by them within the boundaries of the United States. On this ground, therefore, you will demand Mr. Cutting's release.

But there is another ground on which this demand may with equal positiveness be based. By the law of nations no punishment can be inflicted by a sovereign on citizens of other countries unless in conformity with those sanctions of justice which all civilized nations hold in common.

Among these sanctions are the right of having the facts on which the charge of guilt was made examined by an impartial court, the explanation to the accused of these facts, the opportunity granted to him of counsel, such delay as is necessary to prepare his case, permission in all cases not capital to go at large on bail till trial, the due production under oath of all evidence prejudicing the accused, giving him the right to cross-examination, the right to produce his own evidence in exculpation, release even from temporary imprisonment in all cases where the charge is simply one of threatened breach of the peace, and where due security to keep the peace is tendered. All these sanctions were violated in the present case. Mr. Cutting was summarily imprisoned by a tribunal whose partiality and incompetency were alike shown by its proceedings. He was refused counsel; he was refused an interpreter to explain to him the nature of the charges brought against him; if there was evidence against him it was not produced under oath, with an opportunity given him for cross-examination; bail was refused to him; and after a trial, if it can be called such, violating, in its way, the fundamental sanctions of civilized justice, he was cast into a "loathsome and filthy" cell, where, according to one of the affidavits attached to Mr. Brigham's report, "there are from six to eight other prisoners, and when the door is locked there are no other means of ventilation"—an adobe house, almost air-tight, with a "dirt floor"; he was allowed about "8½ cents American money for his subsistence"; he was "not furnished with any bedding, not even a blanket." In this wretched cell, subjected to pains and deprivations which no civilized Government should permit to be inflicted on those detained in its prisons, he still languishes, and this for an act committed in the United States, and in itself not subject to prosecution in any humane system of jurisprudence, and after a trial violating the chief sanctions of criminal procedure.



These circumstances you will state as giving an additional basis, a basis which if it be established this Government will not permit to be questioned for the demand for Mr. Cutting's immediate release.

I am, &c.,

T. F. BAYARD.

No. 318.

*Mr. Jackson to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Mexico, July 21, 1886. (Received July 21.)*

Instant release of Cutting refused; reasons given at length. Shall I telegraph them?

JACKSON,  
*Minister.*

No. 319.

*Mr. Adee to Mr. Jackson.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 22, 1886.*

Summarize reasons briefly by telegraph.

ADEE,  
*Acting Secretary.*

No. 320.

*Mr. Jackson to Mr. Adee.*

LEGATION OF THE UNITED STATES,  
*Mexico, July 22, 1886. (Received July 22.)*

The telegraphic summary of the Mexican Government's reply in the Cutting case shows that it is at present in the state courts, but that the Federal Government has not the power to direct the state officials or the executive of the State of Chihuahua or the judiciary to release the accused, especially where the order interferes with due legal process instituted by a complaining person. In this report it is maintained that Mexico resembles the United States. It is contended that a pressure of private interests or a totally uninformed press in the United States must have induced so imperative a demand for the prisoner's release, and that it is morally impossible to comply therewith. It is asserted that as the moral influence of the Mexican President has been interposed to have the case conducted in accordance with principles of justice the confidence is expressed that the case will soon be terminated in a satisfactory manner.

No. 321.

*Mr. Jackson to Mr. Bayard.*

No. 272.]

LEGATION OF THE UNITED STATES,  
*Mexico, July 22, 1886. (Received July 31.)*

SIR: On the evening of the 19th instant, immediately after the receipt of your telegram of that date, I addressed a note to Mr. Mariscal, of which I now forward a copy. I thought it wise, for the purpose of avoiding possible delay in his action, to direct Mr. Mariscal's attention to the fact that his note of 7th instant, relating to Mr. Cutting's case, was probably before you when the instruction was sent by wire to me, and was therefore not satisfactory.

After making the demand I telegraphed to Mr. Brigham to give me prompt notice of Mr. Cutting's release. Having heard nothing from him nor from Mr. Mariscal during the 20th, on the 21st I addressed another note to Mr. Mariscal, a copy of which I also inclose, and late in the evening received his answer, of which a copy and translation are now sent. They go by the earliest mail after the receipt of the original note by me, but were anteceded by a telegram, in the following words:

Instant release of Cutting refused. Reasons given at length. Shall I telegraph them?

I also inclose a translation copy of Article 260, Code of Penal Procedure, referred to in the communication from the governor of Chihuahua to Mr. Mariscal, which accompanied the note of the latter to myself.

I am, &amp;c.,

HENRY R. JACKSON.

[Inclosure 1 in No. 272.]

*Mr. Jackson to Mr. Mariscal.*LEGATION OF THE UNITED STATES,  
*Mexico, July 19, 1886.*

SIR: I hasten to communicate to your excellency the following telegram, which I have just received from Mr. Bayard, Secretary of State at Washington: "You are instructed to demand of the Mexican Government the instant release of A. K. Cutting, a citizen of the United States, now unlawfully imprisoned at Paso del Norte."

It is proper for me to state that, upon referring to my correspondence with my own Government, I ascertain that a copy of your excellency's esteemed note of 7th instant was forwarded to Mr. Bayard on the 8th, immediately upon its receipt, and must, consequently, have been received by him prior to the 19th instant, the date of his telegram.

In making this demand, through your excellency, I beg to renew the assurance of my most distinguished consideration.

HENRY R. JACKSON.

[Inclosure 2 in No. 272.]

*Mr. Jackson to Mr. Mariscal.*LEGATION OF THE UNITED STATES,  
*Mexico, July 21, 1886.*

SIR: On the 19th instant I had the honor of making a demand through your excellency upon the Mexican Government, for the instant release of Mr. A. K. Cutting, a citizen of the United States, unlawfully imprisoned at Paso del Norte. This demand was made under directions by telegram from my own Government.

Although instructed by me to communicate by telegram the fact of the release of Mr. Cutting, up to this moment I have heard nothing from Mr. Brigham, United States consul at Paso del Norte.

For these reasons I apprehend that possibly my note of the 19th instant, though sent by the usual channel, may not have been placed in your excellency's hands.

In calling attention to this matter I renew the assurance of my most distinguished consideration.

HENRY R. JACKSON.

[Inclosure 3 in No. 272.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
Mexico, July 21, 1886.

MR. MINISTER: Yesterday I had the honor of receiving your excellency's communication, dated the day before, and containing a telegram from Mr. Bayard, the Secretary of State, addressed to that legation, to demand from the Mexican Government the instant release of A. K. Cutting, imprisoned illegally, as that message said, in Paso del Norte; and to-day there has reached my hands another communication of this morning, in which your excellency, not having received notice that the prisoner had left the jail, supposes that I have not received the first of the said notes.

As soon as I had noted the contents of that communication, I telegraphed to the governor of Chihuahua, re-recommending the matter to him, asking him to advise me as to its status. As yet I have not received a reply to that telegram, up to this hour (2 p. m.), and this I should not wonder at, in fact, as I know that the said functionary has had to address the supreme tribunal of the State, and the tribunal the judge at Paso del Norte. Mr. Minister, these are delays that are inevitable in a country governed by institutions like ours, where the Federal Executive is unable to communicate directly with the local authorities of the States. Much less could it give them orders. To do thus would imply a positive offense, especially in the case of judges independent even of the administrative power of the State to which they belong, and that offense would be even more aggravated if designed to trample out and peremptorily stop a legal process, instituted by an interested party, as I understand the case of Mr. Cutting to be.

These considerations cannot but have been evident to the judgment of your excellency's Government, as they refer to the nature of institutions in that particular identical to those in force in the United States of America. I believe, therefore, that only the pressure brought to bear by private persons, or perhaps by an ill-informed press, can have been able to bring about the result that a Government friendly to Mexico, and which up to the present has no complaint against this nation for lack of compliance with its international obligations, should demand in an absolute manner what is, in every light, morally impossible.

In the matter under treatment all has been done up to the present by this Government that comes in the sphere of its facilities; all that can be asked of it while amity and peace reign between the two nations.

Interposed, as has been the moral influence of the President of the Republic, to the end that the case may be conducted with justice, it should be confidently hoped that very soon the matter will be terminated in a satisfactory manner.

I infer this not only from these reflections, but also from the recommendation made by the supreme tribunal of justice of Chihuahua, which your excellency will see in the accompaniment which I have the honor to inclose, and which document I received in original to-day, sent to me in consequence of the communication which I addressed to the governor of that State on the 7th instant relative to the matter.

I am, &c.,

IGNO. MARISCAL.

[Inclosure 4 in No. 272.]

*Mr. Maceyra to Mr. Mariscal.*

[Mexican Republic, Government of the State of Chihuahua, second section, Department of Justice, No. 1339.]

The president of the supreme tribunal of justice of the State, in a communication, No. 733, of the 14th of the current month, says to this Government:

"The supreme tribunal of justice, over which I have the honor to preside, having noted the contents of your esteemed communication, No. 1279, of the 12th instant, in



which you are pleased to forward a communication addressed to you by the secretary of state and of the department of foreign affairs, recommending that justice be administered to Mr. A. K. Cutting in the imprisonment of which he complains, under this date the supreme tribunal decreed what I copy, without preventing the second judge of Bravos from administering prompt and due justice in the matter referred to by the secretary of state and of the department of foreign affairs in the communication forwarded by the executive of the State: Let the said second judge report within the term of three days, and through the justice of peace of the district, regarding the acts which said communication mentions, said report in original to be sent to him, recommending the application of the 260th article of the Code of Penal Procedure," and I am honored in communicating the same to you for your information and in due reply to your note referred to."

I have the honor to inclose the above to you for your information, and as a resultant on your communication of the 7th instant relating thereto.

Liberty and constitution,  
Chihuahua, July 17, 1886.

FELIX FRANCISCO MACEYRA.

To the SECRETARY OF STATE AND OF THE  
DEPARTMENT OF FOREIGN AFFAIRS, MEXICO.

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[Inclosure 5 in No. 272.—Translation.]

*Article 260, Code of Penal Procedure.*

Every person detained or imprisoned for an offense whose punishment may not exceed five years' imprisonment can obtain his liberty under bail, with the consent of the prosecuting attorney; provided always, that he has a fixed and known domicile; that he possesses property, or exercises some profession, industry, art, or trade, and that in the judgment of the court there is no fear that he will escape.

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No. 322.

*Mr. Brigham to Mr. Bayard.*

[Telegram.]

UNITED STATES CONSULATE,  
*Paso del Norte, July 22, 1886. (Received July 23.)*

Mexico massing troops at this point: 150 men this morning, and 2,000 said to be on the way. Cutting still in prison. Great excitement.

BRIGHAM,  
Consul.

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No. 323.

*Mr. Adee to Mr. Brigham.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, July 22, 1886.*

SIR: Referring to your dispatch No. 45, relative to the imprisonment of Mr. A. K. Cutting, I have to inform you that the Department recognize with much satisfaction the justice of your action and the ability you have shown in your report to us of the case.

I am, &c.,

ALVEY A. ADEE,  
Acting Secretary.

No. 324.

*Mr. Brigham to Mr. Bayard.*

[Telegram.]

UNITED STATES CONSULATE,  
*Paso del Norte, July 26, 1886. (Received July 26.)*

Governor of Chihuahua pushing trial of Cutting, who ignores proceedings. Result may be reached to-day. If acquitted, what do?

BRIGHAM,  
*Consul.*

No. 325.

*Mr. Bayard to Mr. Jackson.*

No. 228.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1886.*

SIR: Since my No. 221, of the 20th instant, I have received no further communication from Mr. Brigham, consul at El Paso, nor from yourself, in connection with the imprisonment of Mr. A. K. Cutting by Mexican authority.

On Saturday last, the 24th instant, I was called upon by M. Romero, the minister from Mexico at this capital, in relation to the case referred to.

Mr. Romero produced to me the Mexican laws, Article 186, whereby jurisdiction is assumed by Mexico over crimes committed against Mexicans within the United States or any other foreign country; and under this he maintained the publication of a libel in Texas was made cognizable and punishable in Mexico; and thus Mr. Cutting was assumed to be properly held.

This claim of jurisdiction and lawful control by Mexico was peremptorily and positively denied by me, and the statement enunciated that the United States would not assent to or permit the existence of such extraterritorial force to be given to Mexican law, nor their own jurisdiction to be so usurped, or their own local justice to be so vicariously executed by a foreign government.

In the absence of any treaty of amity between the United States and Mexico providing for the trial of the citizens of the two countries respectively, the rules of international law would forbid the assumption of such power by Mexico as is contained in the Penal Code, Article 186, above cited. The existence of such power was and is denied by the United States.

Mr. Romero informed me that the local or state jurisdiction over Cutting's case did not allow interference by the national Government of Mexico in the matter, and that it was this conflict that had induced delay in responding to the demand of this Government for Mr. Cutting's release.

Mr. Romero finally assured me that I might rely confidently upon Mr. Cutting's release in a very short time, and that there would be no doubt about the compliance of his Government with the demand made through you.

I communicated these facts to you in order to give you a full comprehension of the case as it appears here, and the disposition of the Mexican Government, *as here expressed.*

There was a more extended conversation on my part with Mr. Romero on the general subject of the treatment by the Mexican authorities of American citizens, and cases affecting their property and interests.

I stated to him personally and at some length the single voice that had come to this Department from Mr. Foster, Mr. Morgan, and yourself, in which a declaration was made of the hopelessness of obtaining justice to our citizens in cases where they had been wronged by the officials and Government of Mexico.

I also called his attention to the avowed policy and action of Mr. Mariscal of compelling all claims wherein the Government of Mexico was sought to be held liable for tortious proceedings to be tried and decided in tribunals of her own creation and under her sole control, whose judgments, he claimed, should be held final and conclusive against citizens of the United States.

As this pretension of exclusive control was now under consideration and the subject of correspondence, notably in the case of the "Rebecca," I stated merely that the United States did not accept the judgments of Mexican tribunals in cases where Mexico was a party to the dispute to be binding upon the United States.

I passed, however, to the broader view of the necessity of administering international laws in a spirit of amity, comity, and justice; that these were the wise and true paths of peaceful government, and that the alternatives of reprisal and force were the last and most unsatisfactory resorts.

Mr. Romero is too well convinced to make my renewed avowal necessary that nothing inconsistent with the self-respect, honor, and prosperity of Mexico is desired or intended by the United States, and that it was in the interest of Mexico even more than of the United States that no friction or exasperation should be permitted in the intercourse of the two Governments and of their inhabitants; that to avoid all such irritation or the straining of our friendly relations it is essential that a spirit and readiness to redress wrongs and enforce equitable settlements of matters of difference should be constantly and practically manifested.

I am persuaded of the good intent of Mr. Romero towards this Government, and believe him also to be patriotically faithful to his own. From him I have assurances that a desire to respond in a friendly and conciliatory spirit influences the present Mexican administration.

And if this be the true state of affairs, it can be readily demonstrated, and all questions of conflicting interests and opinions now under consideration diplomatically between the two Governments can without difficulty be equitably, honorably, and satisfactorily adjusted.

I am, &c.,

T. F. BAYARD.

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No. 326.

[Handed to Mr. Bayard by Mr. Romero, July 29, 1883.]

*Article 186 of the Mexican Penal Code.*

Any crimes that may be committed on the territory of a foreign state by a Mexican against Mexicans or against foreigners, or by a foreigner against Mexicans, may be punished in Mexico, in conformity with the laws of the country, under the following provisions:

I. That the accused party should be in Mexico, whether of his own free will or by having been extradited.



II. That a proper complaint should be made by the legitimate party in case the guilty person should be a foreigner.

III. That the accused party should not have been tried in the country where the crime was committed, or, in case he has been tried, that no acquittal, amnesty, or pardon should have been pronounced in the matter.

IV. That the violation of which he may be accused should be considered a crime both in the country where it was committed and in Mexico.

V. That the crime should be liable, in accordance with the laws of Mexico, to a more severe punishment than that of arrest.

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No. 327.

*Mr. Bayard to Mr. Jackson.*

[Telegram.]

WASHINGTON, July 29, 1886.

Consul at Piedras Negras reports Francisco Arresures, naturalized American, extradited, notwithstanding his citizenship, by Texan magistrates.

Return demanded by consul, but denied. Arresures taken from jail and shot by Mexican authorities.

Ask prompt investigation of this alleged murder and punishment of criminals, reserving all questions under treaty of extradition.

BAYARD.

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No. 328.

*Mr. Jackson to Mr. Bayard.*

No. 280.]

LEGATION OF THE UNITED STATES,  
Mexico, July 30, 1886. (Received August 7.)

SIR: I have the honor to inclose herewith a copy of note written by me to Mr. Mariscal, in the matter of the killing of Francisco Arresures, under instruction brought by your telegram of 29th instant.

I am, &c.,

HENRY R. JACKSON.

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[Inclosure in No. 280.]

*Mr. Jackson to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,  
Mexico, July 30, 1886.

SIR: By telegram received from the Secretary of State, at Washington, I am informed that Francisco Arresures, an American citizen, was delivered, upon requisition, to the authorities of Mexico, notwithstanding his American citizenship, by a Texan magistrate; that the American consul at Piedras Negras made demand upon the former for his return, which was refused, and by their order the said Francisco Arresures was taken from jail and shot.

I regret that I cannot specify dates and places of the delivery, demand, and killing. It will suffice, however, to say that the occurrences are very recent, and must have been in the close vicinage of Piedras Negras.

I am instructed by my Government to ask that a prompt investigation may be made of them, and that should they expose a case of violence, the criminals may be brought to justice.

It gives me pleasure to renew, &c.,

HENRY R. JACKSON.

No. 329.

*Mr. Jackson to Mr. Bayard.*

No. 283.]

LEGATION OF THE UNITED STATES,  
*Mexico, August 3, 1886. (Received August 12.)*

SIR: I have the honor to inclose, herewith, copy and translation of Mr. Mariscal's reply to my note of 30th ultimo, relating to the case of Francisco Arresures, an American citizen shot near Piedras Negras. A copy of my note was inclosed in my No. 280, of 30th ultimo.

I am, &c.,

HENRY R. JACKSON.

[Inclosure in No. 283.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, August 2, 1886.*

MR. MINISTER: I had the honor to receive your excellency's communication, dated July 30 last, in which, under instructions from your Government, you request that an investigation be made of the events relating to the shooting which, according to the information your excellency asserts to have received from the Department of State, was perpetrated in the person of the American citizen, Francisco Arresures, near Piedras Negras.

In conformity with the indications which your excellency is pleased to make in said note, the department under my charge has requested a circumstantial report from the governor of Coahuila with reference to the alleged events, and, as soon as it is received, I will have the honor to communicate it to your legation.

I improve, &c.,

IGNO. MARISCAL.

No. 330.

*Mr. Jackson to Mr. Bayara.*

No. 291.]

LEGATION OF THE UNITED STATES,  
*Mexico, August 10, 1886. (Received August 20.)*

SIR: I lose no time in transmitting copy and translation of note just received from Mr. Mariscal in the matter of the extradition and shooting of Francisco Resures, named, in your No. 229 of 2d instant and telegram of 29th ultimo, Francisco Arresures. From the inclosure you will perceive that the Government of the State of Coahuila claims that Resures was a citizen of Mexico and not of the United States.

I am, &c.,

HENRY R. JACKSON.

[Inclosure 1 in No. 291.—Translation.]

*Mr. Mariscal to Mr. Jackson.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, August 10, 1886.*

Mr. MINISTER: Pending the receipt by mail from the Government of the State of Coahuila, of the particulars in the case of Francisco Resures, which I will immediately communicate to your excellency, I have the honor to say that I have just received from said authority a telegram worded as follows:

“SALTILLO, *August 9, 1886.*

“To the SECRETARY OF FOREIGN AFFAIRS, MEXICO:

“Francisco Resures, a Mexican by birth, citizen of San Juan de Allende in this State, and on various occasions a soldier in our army, while evading legal arrest, took up his residence a short time since in Texas. The chief of the Coahuila Guards of Public Safety officially requested him from the American authorities, and the latter delivered him to them, handcuffed, crossing him over the Custom House Ford at Piedras Negras. The chief of the guards ordered him to be unfettered, and delivered over the shackles to the American police, consigning Resures then to the court. When already committed for trial the American consul demanded him, alleging that he was an American citizen which is notoriously untrue. The chief of the guards replied that Resures was no longer under his control, as he had consigned him to the authorities. While the criminal was being conducted from Piedras Negras, where he was received, to Zaragoza, where the court is, he took flight, and in the subsequent pursuit he was killed. Francisco Resures is the criminal in question, and not Arresuis, nor Arresures, as the American papers state. I refer to your telegram of to-day, and will soon answer your note.

“GARZA GALAN.”

As your excellency will please observe, the governor sustains the Mexican nationality of the person referred to, not only on account of his nativity but because he served several times in our army.

I am pleased to renew, &amp;c.,

IGNACIO MARISCAL.

No. 331.

*Mr. Bayard to Mr. Jackson.*

[Telegram.]

WASHINGTON, *August 12, 1886.*

Mr. Bayard informs Mr. Jackson that he has received a telegram from the governor of Texas, stating that Mondragon, Mexican chief of police, has been acquitted of the charge of the murder of Arresures at Piedras Negras. He remarks on the unfavorable impression which is necessarily produced by the contrast between such speedy action and the dilatory proceedings in the case of A. K. Cutting, and directs Mr. Jackson to obtain a complete account of the facts in Arresures's case as soon as possible.

No. 332.

*Mr. Jackson to Mr. Bayard.*

[Telegram.]

MEXICO, *August 13, 1886.* (Received August 13.)

Mr. Jackson informs Mr. Bayard that the government of Coahuila asserts that Arresures was by law a Mexican and a fugitive from justice; and that after he had been extradited, and while he was being conducted to court, he took flight, and, in the pursuit that followed, was killed.



No. 333.

*Mr. Bayard to Mr. Jackson.*

No. 233.]

DEPARTMENT OF STATE,  
*Washington, August 14, 1886.*

SIR: I transmit herewith for your information copy of a detailed report, with accompanying papers, received from Mr. E. D. Linn, United States consul at Piedras Negras, touching the recent kidnapping of Francisco Arresures by the collusion of officers of the State of Coahuila and of Maverick County, Texas, under circumstances which leave no reasonable doubt that a brutal murder was the object and result of the successful attempt of the Coahuila officials to get unlawful possession of Arresures.

You have been heretofore instructed to ask for an investigation of Arresures's murder and the punishment of the guilty parties. Your No. 283, of the 3d instant, reports that you have done so, and a telegram received from you yesterday, August 13, is understood to communicate the Mexican reply to your application. It states that the government of Coahuila claims Arresures as, by law, a Mexican and a fugitive from justice. After extradition, and while being conducted to the court, he took flight, and in subsequent pursuit was killed.

The testimony now before the Department shows that such a reply on the part of the Government is evasive and inaccurate.

The citizenship of Arresures is not material. He appears to have resided for some years in the United States, and there to have declared his intention to become its citizen. He was therefore not merely under the protection which the laws of the United States and of the State of Texas, where he had his residence, throw over him as an alien resident, but entitled to the peculiar protection, as against any unlawful exercise of authority emanating from the land of his origin, with which our laws invest those aliens lawfully within their jurisdiction who have acquired rights of inchoate citizenship by duly making declaration of intention to become citizens.

Under any circumstances, being accused of crime committed in Mexican jurisdiction, he could only be demanded from the United States, within whose jurisdiction he was alleged to have taken refuge, in accordance with the provisions of the treaty of extradition of December 11, 1861, between the United States and Mexico, that is:

Only when the fact of the commission of the crime shall be so established as that the laws of the country in which the fugitive or the person so accused shall be found would justify his or her apprehension and commitment for trial if the crime had been there committed.

There is not the slightest proof, or even suggestion, that the safeguards with which the treaty surrounds the surrender of a fugitive, in accordance with the solemn prescriptions of international and municipal law, have been considered or respected in the case of Arresures. He was simply kidnapped on Texan soil by the complicity of the sheriff and county judge of Maverick County, Texas, and by the sheriff, or persons acting by his orders, conveyed, under false pretenses and in violation of law, to the Mexican side of the Rio Grande, and there handed over to Francisco Mondragon, captain of the *Fuerza de Seguridad* of Coahuila.

The sheriff and the county judge of Maverick County, Texas, have been held and are now undergoing examination for their complicity in the crime.

This disposes of the allegation that Arresures was "extradited." Arresures was not placed within Mexican jurisdiction under the lawful operation of the treaty, by which he could alone have been removed without his own consent, and long established precedent in the relations of states in matters of extradition give the Government of the United States the clearest right to claim a return from Mexico of a person there held under color of a fraudulent proceeding. The right and duty of Consul Linn to demand his restoration to the jurisdiction from which he had been kidnapped is clear, and were Arresures still alive and in the hands of the Mexican authorities the Government of the United States would not hesitate to make peremptory demand for his return, a demand which it is confidently conceived the Government of Mexico must have admitted.

Upon the second allegation of the telegram, that while Arresures was being taken to the court "he took flight and in subsequent pursuit was killed," little need be said, but that most seriously. This plea is one of unhappily familiar repetition. While often preferred heretofore under circumstances tending to throw grave doubts upon its truth, this Government has never met with so conclusive an instance as this where a solitary and unarmed man, taken from his bed at dead of night by a body of armed men, conducted just outside the town limits, and while pinioned and blindfolded had been alleged to have attempted flight from his guard. Such a statement mocks the moral sense and defies credulity.

On receipt, August 12, of a telegram from the governor of Texas, reporting Mondragon's acquittal by the court at Piedras Negras, I sent you a telegram, \* \* \* emphasizing the marked contrast of the speedy action in Mondragon's case with the dilatory proceedings in Cutting's case, and the injurious impressions which must be thereby produced.

From the brief space intervening between Mondragon's arrest and reported release, it is conjectured that his "acquittal" may have been merely his discharge, on the expiration of the constitutional period of detention, for want of evidence deemed by the judge of first instance sufficient for his commitment for further proceedings. It is incredible that the evidence now brought forth as to the condition of Arresures's body when exhumed could have been before the court which released Mondragon.

It is incumbent upon this Government, as an international duty and in the name of civilization and common humanity, to hasten to bring to the knowledge of Mexico the facts disclosed in Consul Linn's report, to the end that no miscarriage of justice shall be permitted. A Government like that of Mexico, which so strenuously contends for reliance upon the decision of its judicial branch to qualify its international obligations, cannot permit itself to rest under imputation that the machinery of justice is permitted to shield criminals, nor afford to assume international responsibility by accepting and approving any palpable mockery of the forms of law, such as this case of Arresures, as reported to us, appears to present.

I am, &c.,

T. F. BAYARD.

[Inclosure in No. 233.]

*Mr. Linn to Mr. Porter.*

No. 18.]

UNITED STATES CONSULATE,  
*Piedras Negras, Mexico, August 3, 1886. (Received August 13, 1886.)*

SIR: I have the honor to report that on the night of July 26, 1886, there was arrested in Eagle Pass, Tex., by Deputy Sheriff Bonifacio Diaz, and other officers, acting under instructions of Sheriff T. L. Oglesby, of Maverick County, Texas, a naturalized citizen of the United States named Francisco Arresuris.

That within fifteen minutes after his arrest Arresuris was conveyed to the Rio Grande River and crossed by skiff to Piedras Negras, where he was delivered to Francisco Mondragon, captain of the *Fuerza de Seguridad*, or State Rangers, of Coahuila, who incarcerated him in the city jail.

On the morning of July 27, Arresuris made a written appeal to me, alleging his American citizenship, and demanding consular protection. I at once addressed a note of inquiry to the sheriff of Maverick County, Texas, at Eagle Pass, requesting from that officer a statement of the facts of Arresuris's arrest, its cause, and of all proceedings of court therewith connected. In reply thereto the sheriff (a copy of his letter accompanying this report) stated that he had Arresuris arrested upon warrant issued by Joseph Hofstetter, county judge of Maverick County, Texas, and that he had delivered him to the Mexican officers in obedience to the said warrant from the county judge. It being apparent that Arresuris had been delivered to the Mexican officers without even the form of an extradition trial, and upon a warrant of a county judge who acted without having even formal charges preferred against the prisoner, I called at once upon Captain Mondragon, and demanded that Arresuris be redelivered to the Texas officers. I was accompanied to Captain Mondragon's private house by Mr. William Schluhardt, a citizen of Piedras Negras, and formerly vice-consul of the United States at this place, and by Mr. John O. Williamson, a citizen of Eagle Pass and the employer of Arresuris. It was in Mondragon's private residence the demand for Arresuris's return to Texas was made. I explained the grounds of the demand to be that the prisoner had been delivered in violation of extradition laws, and that he stood as kidnapped. In support of this I handed to Mondragon, Sheriff Oglesby's letter on the subject, which he read. I also called his attention to the requisites of the law regulating extradition of persons accused of crime. Mondragon admitted that the prisoner had been irregularly delivered to him, but he declined positively and at once to return him to Texas. He did so upon the grounds that he had that morning "transferred the case to the district judge at Zaragoza (in Coahuila), to whom I must apply for the prisoner's return to the United States." I argued the injustice that would be done Arresuris in thus sending him so far from his family and friends under this illegal proceeding, and, producing my exequatur as United States consul, I again demanded in the name of the Government the immediate return of this prisoner. Mondragon replied that "he could not comply, because the case had been sent to a higher court."

Feeling it to be useless to further endeavor to influence Mondragon, I returned to the consulate, and at once wrote a letter to Sheriff Oglesby, urging him to use every means to secure Arresuris's return. Sheriff Oglesby then wrote to Mondragon, asking for Arresuris's return to him, promising to hold him until regular extradition proceedings could be instituted before Judge Hofstetter, the Texas extradition agent. The sheriff's letter was sent to Mondragon by Deputy Diaz, the same officer who delivered the prisoner to the Mexican officers. This demand by Sheriff Oglesby met with a positive refusal to return the prisoner. It was late in the afternoon of the 27th when this final reply from Mondragon was received, and not anticipating the bloody event so soon to take place, I prepared to make application to the district judge at Zaragoza for Arresuris, which application was to be presented on the next day.

On returning to my office on the morning of the 28th, I was informed that Arresuris had been taken from the city jail at or about the hour of 1 o'clock of the night previous; that he had been carried about 1 mile west of the town of Piedras Negras and there shot to death by a party of Mondragon's troops.

I at once made diligent inquiries as to its truthfulness, and found that Arresuris had been dealt with as reported, and that Bartolo Fuentes was the officer immediately in charge of the squad that did the killing. It was also reported that the prisoner was endeavoring "to escape," hence his death. The body of the murdered man was brought to Piedras Negras and interred in a shallow grave, about 2 feet in depth, in the town cemetery by Mondragon's troops. On the succeeding day, at the request of Arresuris' mother, I applied to several of the local authorities and finally obtained consent of Sr. J. M. Cardenas Madero, jefe politico of this district, for the taking up of the body in order to inclose it in a coffin. This was done, and Arresuris' arms were found pinioned to his side and a towel as a bandage over his eyes, in which condition he had very evidently been shot. His body had been thrown into the grave in the clothing he had on, without shroud or coffin or further care or attention.



On the evening previous to the shooting of Arresuris, Mondragon passed over to the Eagle Pass side of the Rio Grande and boarded the train for San Antonio, Texas, thence to go to Saltillo, Mexico. While waiting at Eagle Pass, a few minutes before the leaving of the train, he remarked to Mr. Francisco La Grange, a worthy witness, and an agent in the employment of the railway company at Eagle Pass, that he (Mondragon) had left orders with his soldiers to take Arresuris from jail and to shoot him that night.

This statement, together with the condition in which Arresuris's body was found, and the further fact, that the prisoner had from the first moments of his arrest and delivery asserted "that Mondragon would have him killed," which statement he repeated many times during the short time of his imprisonment, goes to disprove the charge that Arresuris was shot while "attempting escape," a phrase so exceedingly handy for use, when the prisoner's lips have been sealed in death to any contradiction. I have made thorough inquiries regarding the cause of this summary death of Arresuris. The officers concerned in it assert that Arresuris was a bad man, against whom there were charges of horse-stealing, while the dead man's friends and relatives assert that a personal difficulty of several years' standing caused Mondragon, when having him in his power, to destroy him. Arresuris himself said that Mondragon would have him killed because of a personal difficulty between them. Mondragon, it is currently reported here, has had several other men shot quite as summarily.

An examination of the records of Maverick County, Texas, shows that Francisco Arresuris made declaration to become a citizen of the United States in the year 1873. He presented to me a certificate of this declaration, signed by the district clerk of Maverick County, and there is no proof that he has sworn allegiance to any other Government.

His employer, Mr. Williamson, represents him as being a peaceable, industrious, and sober man, while many of the best Mexican citizens in this town also certify to his good character. It is certain, however, that Mondragon will endeavor to prove him a horse thief, which, together with his plea of "attempted escape," is to be the justification offered for the taking of this man's life.

I believe the killing of Arresuris to have been a brutal murder, perpetrated in defiance of law and without any justifying causes. It was committed, too, when a demand for his return to the United States had been made by an officer fully authorized by this Government to make it. This brutal murder is, then, both a wrong done an American citizen and an insult to our Government.

On the 23th ultimo, I telegraphed Hon. T. F. Bayard, Secretary of State of the United States, at Washington, the principal facts in this case, a copy of which now accompanies this report, and on the succeeding day I also telegraphed the governor of Texas, Hon. John Ireland, the particulars of this murder, he having requested me to do so. A copy of this telegram also accompanies this report. I also inclose a copy of a letter received from Joseph Hofstetter, county judge of Maverick County, Texas, explaining his action in this case; also copies of two letters received from the murdered man, the one marked A being his demand for protection, and the one marked B being the one delivered to me after his death, although written in the afternoon of the 27th of July. In letter B he admits his fear of Mondragon's treatment for the night, and subsequent events prove his fear to have been well founded.

Also a copy of letter from J. M. Cardenas Madero, *gefe politico*, authorizing the removal of Arresuris's body for more decent interment, is also inclosed. There also accompanies this report an article taken from the San Antonio (Texas) Daily Express, a reputable newspaper, which claims that Mondragon in like manner shot, without trial, another American citizen, Juan Galindo, in April last. There is no doubt of the killing of Galindo, as asserted in this newspaper article, as I was at the time fully advised, it having occurred within my consular district; but Galindo was represented as a Mexican citizen and a horse-thief, shot "while making escape," hence I made no report to the Department nor took official cognizance of the affair, as well as in several other cases of killing likewise reported.

By the direction of the governor of Texas, the county attorney of Maverick County, Texas, instituted criminal proceedings against the county judge, the sheriff, and Deputy Diaz, who, on preliminary trial, were placed under bail bonds of \$1,000 each for further trial before the district court of the county of Maverick. Complaint was also filed against Mondragon, in the same case (the charge being kidnapping), but his absence in Mexico prevented his trial.

I have written thus fully to the Department in order that it may be furnished with every material fact in my possession concerning this case.

I have, &c.,

E. D. LINN.

[Inclosure 1 in No. 18.]

*Mr. Oglesby to Mr. Linn.*

EAGLE PASS, TEX., July 27, 1886.

DEAR SIR: On the morning of the 26th a warrant for the arrest and delivery of Francisco Arresuris was sent me from Piedras Negras, Mexico; upon receipt of same, I had him arrested and obtained an order from the county judge to deliver him, and did so, taking a receipt for said party. This morning I was told that he was an American citizen; have examined the records here of the county and district clerk's office, and find that the said party declared his intentions to become a citizen in 1873. This is about all I know about the matter. As I have been accustomed in like manner heretofore to deliver up parties under same circumstances, thought it was coming under the province of the law.

Most respectfully, &amp;c.,

T. L. OGLESBY,  
*Sheriff, Maverick County, Texas.*

[Inclosure 2 in No. 18.]

*Copy of telegram sent to the Hon. T. F. Bayard, Secretary of State, from Piedras Negras consulate, relative to killing Francisco Arresuris.*

PIEDRAS NEGRAS (VIA EAGLE PASS), July 28, 1886.

Hon. T. F. BAYARD,  
*Secretary of State, Washington, D. C.:*

On night 26th instant, by connivance of sheriff, Texas side, Francisco Arresuris, a naturalized American citizen, was kidnapped from Eagle Pass. On yesterday, as United States consul, I made demand for this man from Mexican officers. This was peremptorily refused, and last night Arresuris was taken from jail, carried a short distance from Piedras Negras, and shot to death by Mexican authorities. This outrage, joined to constant similar ones on American citizens here, urges on our Government vigorous measures of redress.

E. D. LINN.

[Inclosure 3 in No. 18.]

*Copy of telegram sent Hon. John Ireland, governor of Texas, from Piedras Negras consulate, July 30, 1886.*

AUSTIN, July 30.

Governor Ireland having been advised by accounts in the San Antonio papers of the execution of Arresuris by the Mexican authorities, after he had been delivered to them by the extradition agent at Eagle Pass, upon a requisition believed to be bogus, and charging him with horse-theft, sent the following telegram yesterday to Hon. Ed. Linn, American consul at Piedras Negras:

"Send me full particulars of the arrest and killing of F. Arresuris.

"JOHN IRELAND,  
*"Governor."*

Mr. Linn replied as follows:

EAGLE PASS, July 30, 1885.

Your telegram just received. Francisco Arresuris was arrested by Deputy Sheriff Diaz at Eagle Pass, by order of Sheriff Oglesby, on the night of the 26th instant. He was handcuffed, and in fifteen minutes was delivered to the Mexican officers across the Rio Grande. Oglesby claimed he acted on a warrant of County Judge Hofstetter, who says Oglesby persuaded him to sign this order for the arrest and delivery. No papers from Mexico for his arrest, except a letter from Mondragon, a captain of the State rangers in Coahuila, which made a general charge of horse-stealing against Arresuris. A protest against being delivered to the Mexican officers was strongly made by Arresuris, who insisted that he would be killed by Mondragon, his personal enemy. He appealed to me for protection on the morning of the 27th, and I at once demanded his return to Texas on the ground of his being kidnapped. I also had Oglesby to demand the prisoner's return on the same ground. Both demands were refused by Mondragon, and at 1 o'clock at night Arresuris was taken from jail and brutally murdered by three of Mondragon's troops. In 1873 Arresuris made a declara-

tion of citizenship in **Maverick County**. He lived with his family in Eagle Pass at the time of his arrest, being an omnibus driver. The best citizens in Eagle Pass and Piedras Negras testify to his good character. Oglesby says he had a private understanding with Mondragon by which an escaped murderer from Texas, for whom a large reward had been offered, was to be delivered to Oglesby in exchange for Arreusis. Public indignation is very great on both sides of the river over this affair.

ED. LINN,

*United States Consul.*

A.

*To the American Consul :*

Before you with due respect, and the best I can do at this time with the right I have and I wish to state that it has been twelve years and months that I am an American citizen and resident of Eagle Pass. I was living in said town and working up to last night, when I was taken from my work by armed men, who crossed me to this side, and delivered me to the captain of the rangers. The motive that they crossed me for I am ignorant of, therefore I appeal to you, that you may have a formal investigation of the outrage they have committed.

FRANCISCO ARRESURIS.

B.

*To the American Consul of this city :*

The great fear which I labor under makes me molest you at each step. The crime that I am accused of is made known to me by a friend, saying to me that Mr. Mondragon has been informed that I am a captain of a band of bandits who were creating a great many crimes. In the first place they say that I tried to kill Juan W. Riddle, that he had fought with me, and by good fortune escaped. I can prove to Mr. Mondragon by Juan W. Riddle himself, for no one knows better than he, that I am working in the Maverick stables. I can also prove this by all of the employés of Eagle Pass, and by others if such were necessary, and by this bad information received by Mr. Mondragon I am afraid that he will take me out at midnight and commit an infamy with me, as they have done with other individuals; therefore, to prevent such consequences you can take the necessary steps, and give me time to present my documents showing that I am an American citizen, and prove my conduct in the places where I have lived. I ask you to take into consideration my appeal.

FRANCISCO ARRESURIS.

[Inclosure 4 in No. 18.]

*Statement of Joseph Hofstetter.*

On Monday, the 26th day of July, 1886, at or near 7 o'clock p. m., Sheriff Oglesby with Mrs. Oglesby drove up to my residence in the town of Eagle Pass, and asked for me; upon my stepping up to the gate he told me that he wanted an order from me to deliver up a Mexican horse-thief to the Mexican authorities; that he was the man he had been spotting for the last month or six weeks. I asked him whether the man was a Mexican citizen; he said he knew he was. I then told Captain Oglesby that I would be down at my office soon. I at once started to the court-house, Captain Oglesby overtaking me before I reached the office, and leaving his wife outside in the carriage, holding the horses. Opening my office, I again asked Captain Oglesby whether he was certain that the man he wanted delivered was a Mexican citizen; he assured me he was.

I then asked him, "How about the papers? Have you got the warrant and testimony from the authorities in Mexico?" (or words to that effect), when he answered, "The papers are all right; they will be turned over to you the first thing in the morning;" whereupon I issued the following order:

THE STATE OF TEXAS,

*Maverick County :*

*To the sheriff of Maverick County, greeting :*

You are herewith directed to deliver to Francisco Mondragon, chief of police, Piedras Negras, Mexico, one Francisco Erresurios, whom you now hold in your custody, and who is accused of theft of horses in the Republic of Mexico, as is proven by letters from said Mondragon.

JOS. HOFSTETTER,

*County Judge and Extradition Agent, Maverick County, Texas.*



All this happened between 7 and 7.30 o'clock p. m. on Monday, the 26th instant. Leaving my office, I went home. Next morning about 9 o'clock a. m., I met Captain Oglesby in front of the court-house door, and again asking him about the papers for the man, he answered, "I will [have] the papers here in a few minutes," or similar words.

I have up to date hereof not yet received the papers, Captain Oglesby stating to me that he had not yet received them himself.

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[Inclosure 5 in No. 18.—Translation.]

*Mr. Madero to Mr. Linn.*

FUENTE, July 29, 1886.

SIR: In accordance with the desires expressed in your esteemed favor of to-day, in relation that I may give permission to the mother of him whose name was Francisco Arresuris, killed yesterday by the force of "public security," in compliance with their duty, so that she may unearth her son and put him in a coffin, that she may pay to him the last sad tribute as a mother upon this earth, I have the honor to state to you that I will see the presidente del municipale de P. Negras, so that he, together with the juez civil, give permission to the mother of Arresuris to take him up this very day and put him in a coffin as she wishes to do, so this act may be complied with immediately and with all necessary precautions demanded by law.

I have, &c.,

J. M. CARDENAS MADERO.

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[Inclosure 6 in No. 18.]

*Extract from San Antonio (Texas) Daily Express, August 6, 1886.*

ANOTHER MEXICAN OUTRAGE—MONDRAGON, THE FIENDISH MURDERER OF POOR RESURES, KILLS ANOTHER AMERICAN.

DEL RIO, TEX., August 5 (special).

Since the assertion of Governor Ireland regarding the maltreatment of Texas subjects on the frontier by the Mexican authorities, our people have become again warm over the capture and murder of a citizen of this place about four months since, the particulars of which are about as follows, and can be sustained fully and unequivocally whenever necessary: A few months before this occurrence Messrs. Roach and White, of this place, had occasion to cross from the Mexican side to this side a herd of the horses they had received in exchange for goats in Mexico. In charge of the herd was a man who had long been in their employ, named Juan Galindo.

Galindo was born in Mexico, but at the age of nineteen years came to Texas and lived and married in San Antonio, and in the year 1870 became a citizen and voted there. He afterwards moved to Del Rio, where his parents reside at this time. In crossing the horses above referred to, owing to some irregularity in the custom-house papers he was arrested by the Mexican authorities and confined in jail a few days, and upon having his examining trial was released, there being no cause to hold him. He came to this side shortly afterwards, and as occasion required, worked sometimes in Mexico and again here, as there are several large firms interested in stock on both sides.

About the first of last April, he, however, in company with H. D. Bonnett, formerly sheriff of Bexar County and afterwards river guard at Del Rio, and two Mexican citizens of good repute, passed over into Mexico to gather some horses with the owner of said horses. After having been there about two weeks, and while riding one day near the town of Pillotes, a small town of Coahuila, about 50 miles from the border, Galindo was arrested by this same Francisco Mondragon and put in jail over night, and the next night taken out and brutally murdered by the order of Mondragon, which was executed by one of his lieutenants and a few of his men. Galindo pleaded for a trial, but was not even allowed the form of such, they confiscating the horse, carbine, and saddle he had with him, which he had borrowed. Galindo's old mother and father, with his widow and three orphan children, live in the suburbs of Del Rio, and it was with much difficulty the life of his gray-headed mother was saved after the cruel and sudden blow from the loss of her favorite son. Galindo was a cousin of Resures, killed by order of the same officer, Mondragon, and with less pretense of an excuse. His relatives here say it was done by the influence of a woman living in Las Vacas, opposite Del Rio, who pretended to have lost a horse in the herd referred to, and who had control of this same murderer and coward, Mondragon. Your correspondent can verify all that he says regarding the matter and is ready to

do it. The killing was on April 23 of this year, and was heretofore kept quiet by the ignorance of the parties directly interested and an apathy of the citizens, caused by repeated outrages on the frontier without a sign of protection. However, since the positive stand now taken by our governor this matter will surely be investigated and laid before him for such action as he may deem proper.

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No. 334.

*Mr. Porter to Mr. Jackson.*

No. 240.]

DEPARTMENT OF STATE,  
Washington, August 23, 1886.

SIR: Your dispatch No. 291, of the 10th instant, communicating Mr. Mariscal's reply of that date to the inquiries you were instructed to make touching the murder of Francisco Resures (heretofore erroneously called Arresures) has been received.

Mr. Bayard's instruction No. 233, of the 14th instant, has anticipated a reply to Mr. Mariscal's three points that Resures was not a citizen of the United States; that he was surrendered upon a regular demand of extradition, and that he was attempting escape from his guard when shot.

Mr. Mariscal, quoting from the telegram addressed to him by the authorities of the State of Coahuila, says:

The chief of the Coahuila Guards of Public Safety officially requested him (Resures) from the American authorities (*lo pidió oficialmente á autoridades Americanas*).

No information has yet reached this Department to show that Mondragon, or any other officer of the State of Coahuila, made the formal application for extradition contemplated by the treaty, with the indispensable evidence to "establish," as Article I provides, the "fact of the commission of the crime" charged against the alleged fugitive. If Señor Mariscal can obtain satisfactory proof of the official demand which he asserts was made, it is in the interest of justice, both municipal and international, that it should be produced. The execution of a compact between nations for the mutual extradition of fugitives from justice is too important a matter to be left in doubt or fall into discredit through proceedings in contravention of its letter and spirit. It is alleged by the Texan extraditing magistrate that the application was orally made without production of evidence to sustain the charge. If this be so, a clear case of kidnapping is made out against all concerned in the forcible deportation of Resures, and the treaty of extradition cannot be invoked to cloak the act whereby the unfortunate man was delivered into the hands of Mondragon.

I am, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

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No. 335.

*Mr. Jackson to Mr. Bayard.*

No. 301.]

LEGATION OF THE UNITED STATES,  
Mexico, August 27, 1886. (Received September 4.)

SIR: In obedience to the instruction contained in your No. 233 of 14th instant, I had prepared a note to Mr. Mariscal, to be accompanied by a copy of the report of Consul Linn, in regard to the kidnapping and

killing of Francisco Arresures, and was upon the eve of sending it to the foreign office when I received the note from Mr. Mariscal upon the same subject, a copy of which is herewith inclosed, with translation. From its perusal you will discover that it contradicts, in many essentials, the statements contained in the consul's report:

First, as to the alleged declaration of intention by Arresures, whose correct name is said to be Erresuris, to become a citizen of the United States.

Secondly, as to the time spent by him on the Texas side of the river, it being stated that even had he made such declaration, he would have lost his inchoate citizenship by being domiciled in Mexico, where he was born; by serving in the Mexican army from 1879 to 1885, and afterwards and up to the beginning of this year in the Custom-House Guards of Mexico.

Thirdly, as to the circumstances under which he left Mexico, having fired upon officers who were attempting to arrest him for various crimes, and having escaped by swimming the Rio Grande River.

Fourthly, as to his good character in Piedras Negras, it being intimated that the extradition agent at that place was evidently acquainted with his bad reputation, and therefore ordered his immediate arrest and transfer to Mexican territory.

Fifthly, as to the nature of that transfer, which was not accomplished under the provisions of the extradition treaty between the two countries, but through the "officious" action of the Texan authorities.

Sixthly, as to the demand made by Consul Linn for his restoration to those authorities, it being contended that the consul did not apply in due form or to the proper power for his return; and,

Finally, as to the facts of the killing of Erresuris, it being distinctly averred that while he was being conducted to where the court to try him was sitting, in an effort to make his escape he wrenched from one of his three guards a rifle, with which he wounded the horse ridden by the guard.

After receiving this note from Mr. Mariscal it seemed to me that it would be impolitic to supply him with the report furnished by Consul Linn, until the consul should have had an opportunity to inquire into, and meet, the new phase given to the case by the report from the Government of Coahuila; and I determined, for the purpose of saving time, to send a copy of Mr. Mariscal's note directly to him, with a letter from myself, of which I now transmit a copy.

I am, &c.,

HENRY R. JACKSON.

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[Inclosure 1 in No. 301.—Translation.]

*Mr. Mariscal to Mr. Jackson.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, August 26, 1886.*

MR. MINISTER: Referring to the note I addressed to your legation on the 10th instant, I have the honor to state to your excellency that I have just received from the governor of the State of Coahuila the report rendered by the judge of the district criminal court of the Rio Grande relative to the matter the investigation of which your excellency was pleased to request in your communication of July 30th, last.

From said report and from the observations made by the governor, it appears that the person treated of was called Francisco Erresuris; that he is certainly mistaken for his father, of the same name precisely, when it is stated by some that in 1873 he declared his intention of becoming an American citizen, for at that time, being at most



only eighteen years of age, he was not old enough to take that step ; that, even if he had attained said nationality, he would have lost it later on for being domiciled in this country, where he was born ; he served in the Mexican army from 1879 to 1885, and afterwards, up to the beginning of this year, he belonged to the Custom-House Guards of Mexico ; that when, on account of various crimes he had committed, the political authorities of Piedras Negras ordered his arrest, he fired on the officers and escaped, swimming the Rio Grande ; that on the 28th ultimo, his provisional arrest was asked for from the deputy sheriff at Eagle Pass, pending the compliance with the conditions necessary to his extradition ; but the extradition agent at said place, acquainted, evidently, with his (Erresuris's) reputation, immediately ordered not only his arrest but his transfer to Mexican territory by American police ; that the prisoner was received in Piedras Negras by the commander of the guards of public safety, who placed him in jail at the disposition of the judicial authorities ; that on the following day the American consul at Piedras Negras visited the said commander, informing him verbally and confidentially that according to a letter he received from one of the American policemen, Erresuris was believed to be a citizen of the United States, for which reason he besought his return ; that the commander replied that he could not make the transfer as the prisoner had been consigned to the proper authorities, to whom the consul might apply ; that the latter left without indicating any fixed intention, and that when the criminal was taken out of the jail to be conducted to Zaragoza, where the court to try him was sitting, he tried to escape on the road by wrenching from one of his three guards his rifle, with which he wounded the horse ridden by the guard ; that then the guard with his pistol and another with his rifle shot and killed him (Erresuris).

From the above it is inferred that honorable Mr. Bayard has been ill-informed regarding the case of Francisco Erresuris and the cause of his death ; for, neither was he an American citizen, nor was he delivered over by virtue of requisition, but in an officious manner by the American authorities, who, not content with his arrest, but influenced by his criminal reputation, ordered that he be forthwith conducted to Mexican territory. Lastly, it is not apparent that the United States consul at Piedras Negras applied in due form and to the proper authorities for the return of this supposed American citizen.

It gives me pleasure, &c.,

IGNO. MARISCAL.

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[Inclosure 2 in No. 301.]

*Mr. Jackson to Mr. Linn.*

LEGATION OF THE UNITED STATES,  
*Mexico, August 27, 1886.*

SIR : The copy of a note just received by me from Mr. Mariscal in regard to the killing of Francisco Erresuris, which I inclose herewith, will explain itself. I send it directly to you to the end that, knowing the Mexican side of the case, you may be the better able to make such inquiries and to secure such facts as will controvert the report received from the government of Coahuila and sustain the report made by yourself to the Department of State, under date of August 3, 1886.

I will send a copy of this letter to the Department, which will doubtless give you further instruction in the premises, perhaps by telegraph.

I am, &c.,

HENRY R. JACKSON.

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No. 336.

*Mr. Jackson to Mr. Bayard.*

No. 303.]

LEGATION OF THE UNITED STATES,  
*Mexico, August 28, 1886. (Received September 7.)*

SIR : I have the honor to inclose herewith what purports to be a semi-official Mexican statement of the Erresuris case.

The *El Siglo XIX* is the evening official paper of the Mexican Government.

I have thought it wise to send it in connection with my dispatch No. 301 of yesterday.

I will also send a copy to Consul Linn for his information.  
I am, &c.

HENRY R. JACKSON.

[Inclosure in No 303.—Translation.]

*Clipping from El Siglo XIX, August 26, 1886.*

THE ERRESURIS CASE—A SEMI-OFFICIAL MEXICAN STATEMENT.

The *nisi prius* judge of the Rio Grande district has sent to the state department a report on the killing of Francisco Erresuris. This report will probably be published in due time, but meanwhile we will tell what we know of its contents.

Francisco Erresuris was a Mexican citizen by birth, being a native of San Juan de Allende, a town in the State of Coahuila. He served in our Army from May 2, 1879, until the end of 1881, as a private, and from there on until May 26, 1885, as a sergeant. After obtaining his discharge from the regular Army at the date mentioned, he enlisted in the Fiscal Gendarmery, in which he remained some little time, until expelled by General Hipolito Charles for bad conduct. The chief of public security in the Rio Grande district, Francisco Mondragon, in the discharge of his duty, and in compliance with instructions received to cause the arrest of every criminal, took measures for the arrest of Erresuris, who had stolen 210 head of cattle during the last months of 1885, which he drove across the river into Texas, at a point between Piedras Negras and Jimenez. During February, 1886, he stole 73 horses from the pastures of Santa Monica, Rosales, and Nava. In Moral township he stole 60 horses from Apolonio Montalvo, and 20 from Juan Garza. During the first days of July he stole 30 animals from the Guadalupe hacienda, which he took into American territory to a ranch called Texas. Besides, it appears that he was concerned in the killing of an American in Remolino township, belonging under the jurisdiction of the court at Zaragoza. The police surprised him in his house, which is situated closely to the river's edge at Piedras Negras, and attempted to arrest him as a notorious criminal. But he, after making armed resistance, jumped into the river and escaped to the American side by swimming.

On account of these and other facts, Mondragon requested Sheriff Bonifacio Diaz de Leon at Eagle Pass to arrest Erresuris, in order to prevent his escape while a formal demand was being made. The American judge, before whom the matter was placed, upon hearing the facts, ordered the arrest of Erresuris and his delivery into the hands of the Mexican authorities, and this order was complied with. Erresuris was brought across the river by the public ferry and was delivered to Mondragon with his hands tied. Mondragon ordered the handcuffs to be taken off as soon as the prisoner was in his charge. Immediately after receiving the prisoner, Mondragon consigned him, in the usual form, to the competent judge, which was the criminal judge at Zaragoza. After this was done, the American consul, Mr. E. D. Linn, called upon Mondragon privately and without official character, to ask him if he could not surrender Erresuris to him, because he *seemed* to him, this was the word used, to be an American citizen. Mondragon naturally replied that the prisoner had already been consigned to the court. While matters were in this condition, Mondragon received orders from the Coahuila government to proceed to the capital, with which order he complied. While he was on his way there, and stopping in San Antonio, Tex., three soldiers took Erresuris from the jail to bring him before the judge at Zaragoza. While they were on the road with him, he suddenly threw himself upon one of his guards, and taking away the man's carbine fired at the second, whose horse he wounded. The guard then fired upon Erresuris to prevent his flight and killed him immediately, as has since been fully established by the investigation.

These are the facts, and although some American papers have contorted them, and have made serious charges against the Mexican authorities, others in New York, Galveston, and even in San Antonio, have taken up defense of the conduct of the Mexican authorities as perfectly justifiable. It is not true that Erresuris was entitled to American citizenship. His father, in the year 1872, declared his intention of becoming an American citizen, but he died soon after, and nothing else ever was done to secure American citizenship to Erresuris. Far from considering himself an American citizen, Erresuris, as we have stated already, served both in the regular Mexican army and the Fiscal Gendarmery.

## CONSUL LINN'S REPORT.

The official report made by Consul Linn, at Piedras Negras, on the Erresuris case, differs from the Mexican story in several important particulars. Linn states that, hearing of the irregular extradition of Erresuris, he made a demand upon Mondragon for the prisoner's immediate return, on the ground that he had been kidnapped, and that he made this demand in the name of the United States. Mondragon, while admitting that Erresuris had come into his hands in an irregular manner, refused to comply with the demand, on the pretense that the prisoner had already been consigned to the judge at Zaragoza, who alone could order his return. Sheriff Oglesby also asked Mondragon for the return of Erresuris, and received a negative reply late on the afternoon of July 27. Linn then resolved to apply to the judge at Zaragoza, but, on returning to his office on the morning of July 28, he learned that Erresuris had been taken from the jail the night before, and had been shot, about a mile west from Piedras Negras, by Mondragon's men, under command of one Bartolo Fuentes, while attempting to escape, it was stated. On the succeeding day, at the request of Erresuris' mother, Linn applied to several of the local authorities, and finally obtained consent for the taking up of the body, in order to inclose it in a coffin. This was done, and Erresuris' arms were found pinioned to his side and a towel over his eyes, in which he had very evidently been shot. His body had been thrown into the grave in the clothing he had on, without shroud or coffin or further care or attention.

Mr. Linn further states that Mondragon started for Saltillo on the evening before the shooting, and remarked while about to board the train for San Antonio, at Eagle Pass, to Mr. Lagrange, the station agent, that he had left orders with his men to take Erresuris from jail and shoot him that night. The report also says that Erresuris stood in mortal terror of being murdered by Mondragon, with whom he had a difficulty of long standing, and that Erresuris was given a good character by Mr. William son, his employer, and some of the best Mexican citizens, in the face of the assertion made by the authorities that Erresuris was a notorious horse-thief and criminal. Mr. Linn also states that Erresuris himself showed him a certificate, borne out by the official records, according to which he declared in 1873, before the clerk in Maverick County, his intention of becoming an American citizen, and that there was no proof of Erresuris ever having sworn allegiance to any other Government since.

It is rather significant that Consul Linn obtained no knowledge of the service of Erresuris in the Mexican army, nor seems to have taken any steps to investigate the criminal record of Erresuris given by the Mexican authorities. Another dark point is the Mexican statement that the declaration of intention was made in 1873 by the father of Erresuris, but never by the latter himself.

Secretary Bayard, in communicating Consul Linn's report to Governor Ireland of Texas, characterizes the acts of Maverick County officials in connection with the matter, as constituting kidnapping, and with regard to Mondragon he says: "If it would appear that Mondragon or any other Mexican instituted on the American side fraudulent or deceptive proceedings, constituting under the laws of Texas 'kidnaping,' defining the same to be the taking and carrying away of a free person by force or deception, as described in article 3 of the treaty of extradition, a case may possibly be presented for a demand on Mexico for the extradition of the offenders."

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No. 337.

*Mr. Bayard to Mr. Jackson.*

No. 253.]

DEPARTMENT OF STATE,  
Washington, September 7, 1886.

SIR: I have received your No. 301, of the 27th ultimo, relative to the case of Francisco Erresures, and have forwarded a copy of Mr. Mariscal's note of the 26th ultimo, upon the subject, to his excellency John Ireland, governor of Texas, for his information, with the statement that you had called upon Consul Linn at Piedras Negras, for any further facts he may know in the case.

I am, &c.,

T. F. BAYARD,



No. 338.

*Mr. Bayard to Mr. Manning.*

No. 18.]

DEPARTMENT OF STATE,  
*Washington, November 20, 1886.*

SIR: The attention of the Department has recently been drawn to a "Notice to Americans," published by the legation of the United States in Mexico, in August last, and of which the following is a copy:

Americans are hereby notified that in conformity with Article I, Chapter V, of the Law of Foreigners of June, 1886, foreigners who may have acquired real estate or have had children born to them within (the) Republic will be considered by the Mexican Government as Mexican citizens, unless they officially declare their intention to retain their own nationality and to that effect obtain from the department of foreign affairs a certificate of nationality on or before December 4, 1886.

Said certificates may be obtained for Americans through the legation of the United States, in this city. Applications for same must be accompanied by one dollar for the necessary revenue stamps.

(Signed): Legation of the United States, Mexico, August 20, 1886.

A copy and a translation of the law in question were transmitted to the Department in Mr. Jackson's No. 241, of the 21st of June last, but as the dispatch contained copies and translations of other Mexican laws, to which specific references were made for the Department's guidance, the provisions of Article I of Chapter V of the Law of Foreigners, to which no reference was made, were overlooked, until the notice above quoted, which was not submitted nor communicated to the Department, was subsequently and only incidentally brought to its attention. A comparison of the notice with the law shows that there are certain provisions of the latter to which the notice does not refer; but they do not in any way tend to remove, but rather to increase the dissent of this Government from the position of Mexico as disclosed in the notice. The law in question, having been adopted for the purpose of denationalizing certain classes of foreigners in that country, unless they take some affirmative action to preserve their nationality, contains a principle which this Government is compelled to regard as inadmissible.

The United States, while claiming for aliens within its jurisdiction, and freely conceding to its citizens in other jurisdictions the right of expatriation, has always maintained that the transfer of allegiance must be by a distinctly voluntary act, and that the loss of citizenship cannot be imposed as a penalty nor a new national status forced as a favor by one Government upon a citizen of another.

Not only is this believed to be the generally recognized rule of international law, but it is pertinent to notice that it was accepted and acted upon by the mixed commission under the convention of July 4, 1868, between the United States and Mexico. The first umpire of that commission, Dr. Francis Lieber, held, and the commissioners subsequently followed his decision, that a law of Mexico declaring every purchaser of land in that country a Mexican citizen unless he expressed a desire not to become so, did not operate to change, against their will, the national status of citizens of the United States who had purchased land in Mexico, but who had omitted in so doing to disclaim an intention to transfer their allegiance.

The notice in question is not interpreted by the Department as an admission by the legation of the defensibility, on generally accepted principles of international intercourse, of legislative decrees changing

the national status of foreigners without their consent. Americans are notified that, unless they do certain things, they "will be considered by the Mexican Government as Mexican citizens." This, it is to be observed, does not assert or imply that the legation acceded to the Mexican position. But in order to avoid any question of this kind hereafter you will take occasion to make known to the Mexican Government that this Department does not regard the publication of the notice above referred to as admitting the doctrine of involuntary change of allegiance, or that the same can be held conclusive upon our citizens; and that this Government is constrained to withhold its assent from that doctrine, as embodied in Article I, Chapter V, of the law referred to.

I am, &c.,

T. F. BAYARD.

## CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON.

No. 339.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,  
Washington, April 13, 1886. (Received April 16.)

MR. SECRETARY: I have the honor to communicate to you, for your information, a translation into English of those parts of the message which the President of the Mexican United States read before the Congress of the Union on the 1st instant, at the opening of the present session, with reference to the unfortunate encounter that happened at Teopar, in the Bavis Sierra, on the 11th of January of the present year, between volunteers of the State of Chihuahua and exploring Indians (scouts) of the Army of the United States.

Be pleased to accept, &c.,

M. ROMERO.

*Extracts from the speech which the President of the Mexican United States read before the Congress of the Union on the 1st of April, 1886, at the opening of its present session, in reference to the encounter at Teopar.*

On the 23d of January last the governor of the State of Chihuahua, in a report by telegraph to the war department, says that on the 11th of said month the Mexican forces had had an encounter, at a place called Teopar, in the Bavis mountains, with about 200 Indians, commanded by foreign officers, and had killed five persons, among them their captain (Crawford). On our side a number of persons were also killed and wounded. Among the former were the major commanding the troops and a lieutenant. This incident was somewhat distorted in transmitting this news by the North American newspapers, and this gave rise to a supposition in the United States that the killing of Captain Crawford in said encounter had been intentionally caused by our troops, as they (the papers) assert that the Mexican troops fired against the officers of the United States Army knowingly.

Public opinion was somewhat excited in both countries, and the two Governments were compelled to order a careful investigation of the facts. For my part, and taking into consideration what has been ascertained up to the present time, I have the conviction that in said encounter our troops thought they were fighting the hostile Indians, because they were following the tracks of the savages and of the cattle which had been stolen, and they could not possibly imagine that said Indians had been joined

by others of similar aspect, and among whom were very few soldiers or officers of the United States.

The killing of the courageous and deserving officers and citizens of both countries is a very lamentable affair, but our troops, which were composed of citizens of the State of Chihuahua, will always have the excuse that they could not take as friends the Indians who were in front, when they well knew that according to the agreement for the passing of troops by the frontier only the regular troops of both Republics can pass reciprocally the boundary line when they are following the trail of the hostile Indians.

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No. 340.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,  
Washington, April 22, 1886.

SIR: I have had the honor to receive your note of the 13th instant, with which you lay before me certain extracts from the speech read by the President of the Mexican United States before the Congress of the Union on the 1st instant, at the opening of the sessions of that high body, concerning the encounter at Teopar, in the State of Chihuahua, on the 11th January last, when Captain Crawford, of the United States Army, lost his life.

As you thus officially bring the remarks of President Diaz to my notice, I feel authorized (as otherwise I should not have felt) to say that the information of his Excellency the President is wholly different from all that has been received by this Government in relation to the grave occurrences attendant upon the killing of Captain Crawford by the volunteer troops of Mexico.

In order to bring to your knowledge some of the facts which are entirely inconsistent with those upon which his Excellency President Diaz seems to have relied, I inclose herewith a copy of a recent instruction\* addressed by me to Mr. Jackson, the United States minister at Mexico, which was accompanied by the latest report on the subject received from Lieutenant Maus, the officer who succeeded in command after the killing of Captain Crawford. The Government of the United States will of course await the fullest investigation, although, as the case stands, there is little room left to doubt the hostile and criminal conduct of the officers and men of the Mexican detachment that came into collision with Captain Crawford and killed him and some of his men, besides subsequently grossly insulting by actual arrest and threatened detention Lieutenant Maus and his interpreter *after* their nationality had been perfectly understood.

These instructions to Mr. Jackson and the report of Lieutenant Maus are communicated to you in the confident hope that they will procure your most impressive exercise of influence and representations toward your Government in order to lead to its fulfillment of the obligations due to a friendly neighbor and bring about the vigorous punishment of the guilty.

Accept, sir, &c.,

T. F. BAYARD.



No. 341.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,  
*Washington, April 29, 1886. (Received April 30.)*

MR. SECRETARY: I have had the honor to receive your note of the 22d instant, with which, referring to that which I addressed to you on the 13th, inclosing extracts from a speech delivered by the President of the United States of Mexico at the opening of the present session of the Congress of the Union, you were pleased to send me a copy of certain instructions communicated by you to Mr. Henry R. Jackson, United States minister in Mexico (No. 148), bearing date of the 20th ultimo, and of the inclosures thereto, which consist of the report of Lieutenant Maus to the adjutant-general of the Department of Arizona, dated "In camp on San Bernardino River. February 23, 1886," concerning the affray at Teopar, in the State of Sonora, which took place on the 11th January last, and also concerning the occurrences which happened subsequently thereto.

You were pleased to state that your object in sending me those documents was that I might make such representations to my Government as might induce it to adopt suitable measures, in accordance with the treaty concluded between the two countries, for the reciprocal crossing of their regular troops in pursuit of hostile Indians.

In reply, I have the honor to inform you that, as soon as the Mexican Government received notice of the unfortunate affair at Teopar (which, in my opinion, was wholly accidental, since I am convinced that the Mexican forces thought that they were attacking the hostile Apaches of whom they were in pursuit, and that they therefore cannot have intended to attack the United States forces, or to offend this country), it directed the proper officers to furnish such reports as should enable it to form a correct idea of what had taken place, and to take proper action in view of the facts that should be proved, and that when, on the 15th February last, Mr. Jackson requested the Mexican Government to hold an investigation of the said occurrences, one was ordered, and Mr. Jackson was so informed by the department of foreign relations by means of a note dated "City of Mexico, February 18, 1886."

As soon as the governor of Chihuahua received information of the encounter in question, he ordered an investigation to be held by the district court, with a view to eliciting the truth; the Government of Mexico, however, has not been willing to base its action on that report, but has waited for a fuller and more minute military report, which was ordered by the war department to be prepared.

As soon as that report is finished the result thereof will be communicated to the United States Government, and in the mean time I entertain the hope that it will conclusively show that the Mexican forces thought that they were attacking hostile Indians, and that they never dreamed that the men whom they were confronting were United States troops.

From Lieutenant Maus's official report you deduce two charges against the Mexican forces that took part in the affray at Teopar: First, that they attacked the United States troops knowing them to be such; and second, that after the attack, they made Lieutenant Maus and the Indian interpreter Concepcion prisoners, and treated them very badly.

I think that the Mexican Government had knowledge of the first of these charges only, and that it was wholly unaware that the second had been made until it was preferred by the United States legation in Mexico, in obedience to the instructions sent by you to Mr. Jackson on the 20th March last.

In order not to risk the expression of a conviction which, however deep it may be, may yet not be based upon sufficient evidence, I shall, pending the conclusion of the inquiry, confine myself to saying, on the first point, that, as I have already stated, I do not consider it even probable that the Mexican forces attacked those of the United States knowing them to be American troops, for the single reason that they had no motive for doing so, inasmuch as the said Mexican forces were composed of citizens of the State of Chihuahua who resided in districts that had been invaded by the Indians, and who, in defense of their lives and property, had organized as a military force for the extermination of the savages. Entertaining this purpose, their intentions and wishes were entirely in accord with those of the United States forces. There was no prejudice against these forces; there were no outrages to avenge, and there was no motive whatever that could explain, unless on the hypothesis that the Mexicans had wholly lost their reason, any hostile design against the United States troops; on the contrary, all the antecedents of the case furnish ground for the belief that they felt convinced that Captain Crawford's camp was occupied by hostile Indians.

I beg you, in this connection, to allow me to call your attention to the very words of Lieut. Marion P. Maus's report, which was sent as an inclosure to your aforesaid note. At the close of his report, Lieutenant Maus says:

I am willing to admit that the first attack was through a mistake as to our identity, because it was early, and the weather cloudy. I certainly desire to be just to these men.

Substantially the same views are expressed in the official reports of Lieutenant Shipp, Mr. Thomas Horn, and Mr. William Harrison, officers in command of the Indian scouts, although all three are of the opinion that the Mexican forces must have become aware of the fact that the Indian scouts belonged to the United States before the action was over.

On the second point, as no notice had been received concerning that on which your Department's complaint was based, the Mexican Government had not secured the information necessary to enable it to judge.

If, when such information is received, it shall be found that the statements made in Lieutenant Maus's report are correct, the Mexican Government will act as its duty requires, in view of the stipulations of the agreement for the crossing of troops; but if, as I trust, that report shall prove to be inaccurate or exaggerated, the result of the information secured by the Mexican Government will be communicated to that of the United States.

Be pleased, &c.,

M. ROMERO.

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No. 342.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,  
Washington, May 4, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, in relation to the recent occurrence at Teopar, in the State

of Sonora, when Captain Crawford, of the United States Army, was killed by certain Mexican volunteers who attacked his camp.

As both Governments are awaiting the further ascertainment of facts necessary to establish the responsibility for that distressing occurrence, I presume that I am to understand your note as written out of abundant caution and reserve, and not as an invitation to discuss the question on its merits so far as they now appear.

I cannot, however, refrain from expressing my dissent from the inference you seek to draw from the willingness expressed by Lieutenant Maus to admit that the *first attack* was through a mistake as to the identity of Captain Crawford's command. This inference is incompatible with the established facts. There were two distinct attacks upon Captain Crawford's encampment. The first occurred at daylight when a volley was fired into the camp by the Mexicans and returned. After that, in the open and in daylight, Captain Crawford, with his interpreter, under a white flag of truce, had a conference with the leaders of the Mexican party, and his identity and mission were fully made known. It was not until after that conference that the second attack was made, when Captain Crawford was shot in the open, and in full sight of both camps.

Had you been aware of this, I doubt not you would have suspended judgment and not argued the innocence of the Mexican party from Lieutenant Maus's frank admission that the first attack at daylight may possibly have been due to a mistake as to the identity of his party.

Accept, sir, &c.,

T. F. BAYARD.

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No. 343.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION, *May 5, 1886.* (Received May 7.)

MR. SECRETARY: I have had the honor to receive your note of yesterday, acknowledging the receipt of that which I addressed to you the 29th of April last, in reply to the one from your Department in regard to the unhappy engagement at Teopar between volunteers of the State of Chihuahua and Indian scouts of the Army of the United States.

You are pleased to state that, as both Governments are awaiting later development of facts necessary to fix the responsibility of that unfortunate occurrence, you presume that my note is to be understood as written with extreme caution and reserve, and not as leading to the discussion of the question on its merits so far as these are now known.

In my said note of April 29 last I informed you of the different measures taken by the Mexican Government to obtain detailed and exact reports of this occurrence, and these explanations indicated its intention not to discuss the affair until it should possess the necessary data to enable it to judge it fundamentally in all its details.

The other statements contained in my said note were intended to express to you my personal conviction, in my opinion not without foundation, that that encounter had been accidental; that is, that the Chihuahuan troops thought that the encampment of Indian scouts was an encampment of hostile Indians, and that in attacking it they could not, for this reason, have intended to attack the Army of the United States, to



which the Indian scouts belonged; and with this intention I adduced the considerations given in said note, because I have always thought it my duty to make explanations that might conduce to prevent misunderstanding between the Governments and people of two friendly and neighboring countries whose cordiality and pleasant relations I have endeavored to cultivate.

I could state various other considerations in favor of my conviction concerning this affair, but not being in possession of the facts which may be proved by the military investigation ordered by the Government of Mexico, it seems preferable to put off this discussion until the said investigation has been made.

You refer also to the mention contained in my note of April 29 that, in my opinion, from the said official report of Lieutenant Maus, of which you were kind enough to send me a copy with your note of the 22d, may be inferred that the attack was accidental, and you state that there were two attacks—one at dawn, which might have been due to error in regard to the identity of the troops of Captain Crawford, and the other after daybreak, when, in your opinion, the identity of the United States troops was fully known to the Mexican soldiers.

If you will permit me, without entering into discussion which will take place when the Government of Mexico receives all the information it has solicited, I may note some of the considerations which make me think that the Mexican troops had not this knowledge, which I do in deference to the good understanding between the two countries, I shall show, in the first place, that, as the volunteers of Chihuahua were not regular troops, they were, therefore, not under strictest discipline, and accordingly the orders of their officers to stop firing when Captain Crawford proposed its cessation were not obeyed, as neither were those of Lieutenant Maus obeyed by the Indian scouts of the United States Army in regard to the cessation of their firing, as stated by him in his said report.

It is easy to understand that another difficulty with Lieut. Santana Perez, in making his subordinates obey him, was the death of their leader, Commandant Corredor, who fell at the first fire of the second attack.

I have, further, the conviction that the troops of Chihuahua, by their organization and by a combination of unfortunate circumstances which occurred in this event, were not persuaded that the troops under Captain Crawford were Indian scouts of the United States Army until long after the termination of the second attack, nor perhaps till after the 11th of January, when this was proved.

Bearing in mind that men's actions are always impelled by some motive which it is necessary to know to comprehend them, those persons who attribute to the Mexican forces the intention to attack those of the United States explain this motive in two ways. The first consists in saying that the Mexican forces desired to possess themselves of the supplies of the Indian scouts, and that this was the object of their attack. This explanation does not seem to me likely. In the first place, because peaceable citizens, who had armed themselves to defend their lives and property, could not think of exposing them, especially as the scouts occupied a very strong and advantageous position, for the purpose of despoiling their allies, since the United States troops are naught else as regards the hostile Indians, from whom they were endeavoring to defend their property.

When we consider the manner in which these citizens were organized and armed, the time employed by them in looking for the Indians, the

difficulty they had in finding their trail and discovering their encampment, it is impossible not to recognize that they were under the conviction that in that encampment were their enemies; that is, the hostile Indians. If they had had at least the slightest suspicion that the scouts of the United States Army were there I surely believe they would not have been attacked, because such an attack could have answered no purpose but that of exposing their lives without obtaining any favorable result for them nor realizing the end for which they had organized and armed.

The second explanation which is given in support of that theory is that the volunteers of Chihuahua proposed to present the leaders of the Indian scouts to the Mexican Government in order to receive the reward of \$400 apiece, which is said to have been decreed by that Government.

I think proper to inform you on this point that there is not a single law, decree, circular, or provision of any kind in Mexican law which grants rewards to those who present Indian chiefs, and that therefore the federal Government of Mexico cannot concede any reward whatever for them.

Having asked the governor of Chihuahua if in the especial laws of that State there was any provision of this kind, he informed me that the legislature of that State issued on the 25th of May, 1849, a decree, having for object to forward the war against the hostile Indians that were then desolating that State.

I have the honor to send you herewith copy of that decree, in which you will see that no reward is conceded to him who presents the Indian leaders, and that its Article 5 promises a reward of \$200 for every armed Indian killed in action during war, \$250 for every Indian under arms who might be brought in prisoner, and \$150 for every female Indian of whatever age, or every Indian under fourteen years, that should be produced as prisoners.

This decree shows that the legislators of Chihuahua preferred the presentation of Indians as prisoners to the finding of those killed in the campaign, since they offered a higher reward for the former.

This reward was the only one received by the citizens of the State for arming to defend themselves against the Indians, since they were paid no allowance as soldiers, nor rations, nor any other compensation.

Article 6 does not exact the presentation of the Indians killed or prisoners to the governor of the State of Chihuahua, nor to any authority at a distance, but to the council of whatever district within whose jurisdiction the finding or the capture of the Indians had occurred.

But the clearest proof that the desire of reward for the capture or presentation of the Indian scouts could not have been the object of the attack on the 11th of January is, that according to the above mentioned decree that those sums were to be paid for the wild (*bárbaros*) Indians that might be exhibited as killed in action or captured, and the Indian scouts are not in the category of wild Indians, as they form part of the troops of the United States.

If the volunteers of Chihuahua knew, as it was thought, that the encampment at Teopar was occupied by Indian scouts, they could not expect that by killing or capturing these they would be paid any sum whatever, inasmuch as they were neither wild nor hostile Indians, and this, in my opinion, shows conclusively that the desire to earn said sums could not in any way have led to the attack.

Be pleased to accept, &c.

M. ROMERO.

## LAW 4.

ART. 1. It is declared that war against the barbarian Indians (*bárbaros*) is under present circumstances the prime necessity of the government.

ART. 2. The government of the State is empowered, in order to wage this war, to contract for native and foreign volunteers.

ART. 3. The contract or contracts to be made by the government shall be upon the basis of the sums of money awarded for every Indian shown to be killed in battle or made prisoner.

ART. 4. The government is authorized to make such moderate outlays as it may think necessary to carry out the contracts mentioned in the foregoing article.

ART. 5. The contracts spoken of in Article 3 shall be as follows: Two hundred dollars for every Indian killed under arms and two hundred and fifty dollars for every such Indian prisoner that may be brought in (?) (*presentado*); for every female Indian of whatever age, and for every Indian less than fourteen years of age, brought in prisoners, one hundred and fifty dollars shall be paid.

ART. 6. The killed or captured Indians mentioned in the foregoing article may be immediately presented before the council before which they are to be presented.

ART. 7. When congress is not in session the permanent committee shall decide any doubts the government may have in the fulfillment of this decree.

ART. 8. The government will account to congress for the contracts it may make.  
May 25, 1849.

Copy.

Washington, D. C., May 5, 1886.

CAYETANO ROMERO,  
*Secretary.*

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No. 344.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,  
Washington, May 13, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, concerning the recent engagement which led to the killing of Capt. Emmet Crawford, and in which, after presenting several theories upon the subject, you say:

I might adduce several other considerations in favor of the conviction, which I [you] hold as to this affair; but not being in possession of the facts, which may hereafter be proved as the result of the military investigation ordered by the Government of Mexico, it seems preferable to defer such discussion until that investigation is ended.

As we concur in deeming discussion of details premature, and based merely upon personal conjectures, there appears to be no present advantage in attempting further discussion until the facts are more definitely ascertained.

Accept, sir, &c.,

T. F. BAYARD.

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No. 345.

*Mr. Romero to Mr. Bayard.*

MEXICAN LEGATION,  
Washington, June 16, 1886. (Received June 17.)

MR. SECRETARY: Being aware of the objections which the Government of the United States has made against the laws heretofore in force in Mexico concerning the matriculation of foreigners, I inform you that



a law,\* approved during the last period of the sessions of the Congress of the United Mexican States, in relation to alienship and naturalization, and promulgated by the President of the Republic on the 28th of May last, published in the *Diario Oficial* on the 7th instant, repeals by its thirty-ninth article the laws which prescribed the matriculation of foreigners, leaving it optional with foreigners residing in Mexico to request a certificate of their nationality, which will be issued to them by the secretary of foreign relations.

Be pleased to accept, &c.,

M. ROMERO.

No. 346.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,  
Washington, June 19, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, informing me that, by the thirty-ninth section of a law enacted by the Mexican Congress and proclaimed May 28th last, the laws which have hitherto prescribed the matriculation of aliens are repealed, leaving it optional with foreigners sojourning in Mexico to apply for a certificate of their nationality, which will be issued to them by the secretary of foreign relations.

I am in receipt of a copy of the law of 28th May, sent hither by the United States legation in Mexico, and a perusal of its text confirms the gratifying impression conveyed by your note, that the substitution of an optional registration of foreigners as presumptive evidence of their status in place of compulsory matriculation as the sole condition of proving alien status in Mexico, and enjoying international rights pertaining to such status, will remove the grounds of complaint which have heretofore obstructed the friendly consideration of international questions by the two Governments.

I observe, however, that the same section, the thirty-ninth, to which you refer, provides that "the definite proof of determinate nationality shall be made before competent courts and by the means established by the laws or treaties." Reserving the point until it shall be better understood, I may express my confidence that nothing in Mexican domestic legislation or in the judicial proceedings thereunder will be found calculated to impair, as the compulsory system of matriculation has heretofore appeared to do, the reciprocal right and duty of a citizen of the United States in respect of the national protection to which he is entitled and the allegiance he owes.

Accept, sir, &c.,

T. F. BAYARD.

No. 347.

*Mr. Romero to Mr. Bayard.*

LEGATION OF MEXICO,  
Washington, June 21, 1886. (Received June 22.)

MR. SECRETARY: I have had the honor to receive your note of the 19th instant, in reply to mine of the 16th, whereby I informed you that Article 39 of the laws of the Mexican Congress, which was promulgated

\*Published page 653 *supra*.

on the 28th of May last, had taken the place of the laws previously existing in relation to the matriculation of foreigners, leaving those residing in Mexico at liberty to apply for a certificate of their nationality, which would be issued to them by the secretary of foreign relations.

You are pleased to state that you have already received a copy of that law, and that you observe that it is provided in Article 39 that "final proof of any given nationality shall be furnished before the competent courts, and by the means provided in the laws and treaties." Reserving this point until it shall be better understood, you express your confidence that there is nothing in the domestic laws of Mexico or in the judicial proceedings thereby sanctioned that can restrict the rights of a citizen of the United States with respect to the national protection which he is entitled to receive from his country, or his obligations to the same.

I beg you to permit me to state that, in my opinion, two different questions are embraced in the foregoing; the first has reference to the manner of proving the nationality of a foreigner and the second to the rights and duties which that nationality confers or imposes upon foreigners residing in Mexico. Until the date of the promulgation of the law of the 28th of May last, proof of the nationality of a citizen of the United States consisted in Mexico of his certificate of matriculation, and that system has been abolished by this law. When the nationality of a person is once established it is evident that he is entitled to the enjoyment of what the laws or treaties of the country grant to foreigners in general, and especially to those of a given nationality, if special treaties exist.

Before concluding this note, it seems proper for me further to inform you that Article 31 of the aforesaid law has very liberally modified the Mexican laws which prohibited foreigners not residing in Mexico from becoming owners of real estate in that country.

Be pleased to accept, &c.,

M. ROMERO.

## THE NETHERLANDS.

No. 348.

*Mr. Bell to Mr. Bayard.*

No. 76.]

LEGATION OF THE UNITED STATES,  
*The Hague, December 1, 1885. (Received December 14.)*

SIR: Referring to my No. 60 of the 26th October last, I now have the honor to inform you that the minister of foreign affairs, Mr. Van Karnebeek, has replied to the observation comprised in the report of the commission of the Second Chamber respecting the budget of the department of foreign affairs for the year 1886.

The minister, after referring to the protocol of the conference upon the Suez Canal, published by the English Government, admits that the conference did not reach the desired result.

It is claimed, however, that there is ground for the belief that a practical solution of the pending questions will be arrived at through diplomatic negotiations,

The minister says that the new treaty of commerce and navigation with Spain has encountered great difficulties owing to the conclusion of pretended treaties of reciprocity which the United States have concluded with some American states and with Spain, by virtue of which treaties there is assured, on one side and on the other, certain favors on the condition that they will not be granted to third powers in virtue of the "most favored nation clause."

The treaty with Spain, the minister further says, concerns especially the islands of Cuba and Porto Rico, and from the intimation from the Government of Spain this treaty will make it difficult to admit the Netherland vessels and merchandise in those two colonies upon the footing of the most favored nation; that is, upon the footing of the United States.

On the other hand, the Netherlands Government does not consent to the new theory adopted by the United States and Spain as to the signification of the "most-favored nation clause," a clause upon which are based all the treaties of commerce concluded by the Netherlands.

Consequently the Netherlands Government have decided to suspend temporarily the negotiation with Spain, and especially has this course been determined upon as it has been shown that the treaty of reciprocity between the United States and Spain has produced a very unfavorable impression among the other powers, and as it has also encountered very serious opposition in the United States, it is not improbable that in the end it will not be ratified.

The question of the importation of Netherlands sugar into the United States has by right attached itself to the question of the treaty of reciprocity, and must depend, therefore, for its fate upon this treaty. \* \* \*

I have, &c.,

ISAAC BELL, JR.

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No. 349.

*Mr. Bayard to Mr. Bell.*

No. 30.]

DEPARTMENT OF STATE,  
Washington, December 8, 1885.

SIR: The attention of the Department has been called to a measure now before the States General of Holland which will if adopted increase the duty upon refined petroleum imported into the Dutch colonies from 5*d.* to 1*s.* 6*d.* a case. Such a measure cannot but be prejudicial to the commercial interests of the United States, and in an even greater degree to those of the colonies of the Netherlands, for it threatens the existence of a commerce now highly advantageous to both parties to the exchange. The proposed duties would under existing conditions of trade prove almost a prohibition upon the commodity taxed, and by depriving the inhabitants of the colonies of an illuminating oil of high quality and low price would impose a heavy burden upon them. \* \* \*

The importance of this trade in petroleum between the United States and the Dutch colonies may be seen from the following facts:

During the fiscal year ending June 30, 1885, the value of the total exports of domestic merchandise from the United States to the Dutch East Indies was \$2,103,066, and to this total petroleum contributed \$2,024,732. The entire export trade of the United States to these colonies may thus be said to rest upon this one article. The importance of this commodity



in the trade with the Netherlands and the other colonial possessions of that country is somewhat less, but still of no mean proportions. Of a total export trade to the Netherlands of \$16,634,137, petroleum forms nearly one-eighth (\$2,047,597); in that to the Dutch West Indies it figures with only \$9,859 out of a total of \$653,853, the comparative insignificance of which is attributable to natural causes; and in that to Dutch Guiana it contributes \$13,928 out of \$276,667.

To impose a duty which is even a moderate increase on that now assessed would inflict a loss that can only be counted by millions.

The prejudice arising from the proposed change in duties would not be confined to the trade between the United States and the Dutch colonies, but would also affect injuriously the commercial relations between the United States and the mother country. This injury would not apply to petroleum alone, but to general commerce, where the interests at stake are far greater. To level a blow at so important an article of export as petroleum is to the United States must create a prejudice against the nation that struck the blow. It is hardly necessary to show why retaliatory duties are to be condemned, but the feeling created in this country by the restrictions and prohibitions upon meat and meat products of the United States by European nations gave occasion to a movement in favor of such duties which cannot but be strengthened by such a policy as this proposed increase of duty embodies.

In the fiscal year 1885 the total imports from the Netherlands and her colonies into the United States amounted to \$9,566,427, and the total exports from the United States to these countries amounted to \$19,687,723. To strike at petroleum would threaten a direct loss in that commodity of upwards of \$4,000,000 and involve an indirect loss of an unknown extent upon the import and export trade under discussion, which without petroleum amounts to more than \$25,000,000 annually. The proposed duty cannot be levied for revenue purposes as it virtually amounts to a prohibition upon the importation of petroleum; neither can it be regarded as a measure of protection, as there is no native product in either colonies or mother country that needs protection or that is able to supply the place of petroleum; nor is there any country on either continent, apart from the United States, that can furnish an illuminating oil of such a high quality as is now imported into the Dutch colonies. It is not therefore straining a point to regard the proposed duty as one leveled directly against trade interests of the United States.

There are other considerations which enforce the position of the United States in this matter. In the year 1885 the total imports into the United States from the Netherlands and her colonies amounted in value to \$9,566,427. Of this total \$5,414,599, or more than half, was subject to no duties whatever under the tariff of the United States. The showing is even more striking when the trade of the colonies alone is considered. Of a total import trade from the Dutch West Indies of \$3,261,671, more than 91 per cent., or \$2,991,490, was admitted free of duties. In the trade with the Dutch East Indies the imports not subject to duty were more than seven times as large as those on which duties were assessed, and in the trade with Dutch Guiana only one-fifth of the imports paid duties at our custom houses. Few countries of Europe are so little affected by the tariff of the United States as the Netherlands.

The United States in 1883 removed all duties from spices, which form, next to sugar, the chief article of export from the Dutch colonies; and this repeal resulted in conferring substantial advantages upon these

colonies by throwing open to their products an extensive and rapidly increasing market.

From the English colonies alone are the imports of spices greater than from the Dutch, so that the highest advantage to be obtained from the repeal was secured by these two nations.

The repeal of this and other duties should be taken as an earnest of a wish on the part of the United States to remove restrictions upon trade and to invite and encourage freer commercial relations between this country and other nations. The proposed increase in the duty on petroleum imported into the Dutch colonies can only be regarded as a measure of a contrary tendency, and calculated not only to impede, but to destroy, an extensive commercial interest, which can exist only through the mutual advantage accruing through it to both parties to the exchange.

I am, &c.,

T. F. BAYARD.

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No. 350.

*Mr. Bell to Mr. Bayard.*

No. 82.]

LEGATION OF THE UNITED STATES,

*The Hague, December 14, 1885. (Received December 29.)*

SIR: The growing trade between this country and the United States in Sumatra tobacco at a time when other industries are tranquil seems a question of so much importance to those connected with the culture of tobacco in the United States, that I have thought it proper to invite your attention to certain features of the trade at a time when measures are likely to be considered by Congress regarding a change in the tobacco tariff.

Tobacco growing or culture as an industry in Sumatra dates from 1865.

There are no figures at hand to show to what extent it was cultivated between the years 1865 and 1876.

During the year 1876 29,000 bales were grown in Sumatra. In 1883 the number of bales had increased to 100,000.

The tobacco is brought from Sumatra to Amsterdam, where it is sold at public auction at stated periods during the year.

The following statement, according to the last consular record, shows the growth of the trade. Sumatra tobacco exported from Amsterdam to the United States as follows:

Quarter ending—

|                          |            |
|--------------------------|------------|
| September 30, 1883 ..... | \$5,789 86 |
| December 31, 1883 .....  | 32,720 26  |
| March 31, 1884 .....     | 117,625 06 |
| June 30, 1884 .....      | 437,541 88 |
| September 30, 1884 ..... | 415,759 47 |
| December 31, 1884 .....  | 713,767 78 |
| March 31, 1885 .....     | 290,153 00 |
| June 30, 1885 .....      | 547,951 00 |

\* \* \* \* \*

I have, &c.,

ISAAC BELL, JR.

No. 351.

*Mr. Bell to Mr. Bayard.*

No. 88.]

LEGATION OF THE UNITED STATES,  
*The Hague, December 22, 1885. (Received January 4, 1886.)*

SIR: I have the honor to acknowledge the receipt of your No. 30, of December 8, saying that the attention of the Department has been called to a measure now before the States General of Holland, which if adopted will increase the duty on refined petroleum imported into the Dutch colonies from 5*d.* to 1*s.* 6*d.* per case.

I would respectfully invite your attention to my No. 57, of October 15, and also to my No. 72, of November 16, in which I made a full report of the contemplated changes in the tariff, and especially alluded to the proposed tax on petroleum by which, as I stated, the Government hoped to realize a revenue of 800,000 florins. \* \* \*

Immediately upon the receipt of your dispatch I addressed a note to the minister of foreign affairs (copy of which is inclosed), and in order to secure prompt attention brought it to him myself.

In delivering it, I called particular attention to the various points it contained. He at once replied emphatically that the projected measure was by no means intended to discriminate against American petroleum, and in fact that it would distress the Government of the Netherlands to a greater extent even than the Government of the United States, if any measures should be adopted which would in the slightest degree detract from the shipment of petroleum.

He thought that such a result would utterly defeat the purpose of the law, as it was entirely based upon the desire to increase the revenue of the colonies and must be regulated as a fiscal measure, and not as a desire to restrict commerce.

His Excellency then referred to the deficit in the colonial budget, and the distress existing amongst the planters. With a view to afford some relief to the latter he stated there was a project to reduce the export tax on coffee, tea, and sugar, by which act the deficit in the budget would be still further increased.

In order to provide for this deficiency, it was necessary to tax some article which would yield a revenue, and the burden of which would at the same time be generally distributed.

I then informed him that the project of such a duty produced upon my Government the impression of an unfriendly act, in view of the liberal concessions which they had made in favor of Indian produce, and more especially so as petroleum was exported principally, and I might say only, from the United States.

His excellency then remarked that the bill regulating this tax had not yet been distinctly formulated, and that he would have a further consultation with his colleague, the minister of finance, and that it might be so arranged as to collect the equivalent revenue by means of an excise law, which would equally answer their purpose.

I replied that whilst such a method might be preferable to a direct tax on imports, it did not meet all the features of the case, as possibly there were other articles procurable in the colonies which, owing to the increased price in petroleum, might enter into competition with it, and that, at all events, the increased price would tend to decrease the consumption.

He assured me that there was neither any article in the colonies nor any article (under the proposed tariff) capable of importation into the



colonies which could in any measure compete with petroleum in its most ordinary use, and that, in fact, it was an actual necessity.

His excellency then alluded to the question of Sumatra tobacco, and said on this point "I expect soon to have a conversation with you of quite a different nature, as other principles are involved." Recalling our previous conversation, he added that he understood that it was contemplated to place duties on tobacco in the United States, which would directly discriminate against Sumatra tobacco, and that it would be done in order to protect certain agricultural interests.

I replied that I knew nothing of the matter beyond what he himself had told me, but that the constantly-increasing figures of export would seem to indicate a profitable industry, and, moreover, that I had seen it mentioned in the Rotterdam papers that some of the Sumatra tobacco companies had declared annual dividends of over 100 per cent., which suggested that it was not a commerce which required material protection from the Government.

To this he answered that the Government derived no direct benefit from it, as the tobacco industry in Sumatra was entirely a private enterprise, and not, as the coffee culture in Java, a Government monopoly.

On taking my leave he again expressed his desire that I should inform my Government that he trusted that nothing could possibly occur which would detract from the commerce in petroleum, and that he would shortly send me a written answer to my communication.

The press of this country are devoting considerable space and time to the discussion of the Sumatra tobacco question, and especially to rights of the Government to invoke the aid of the "favored-nation clause" of the treaty of 1782 in case of an attempt on the part of the United States to levy further duties on tobacco which may or may not discriminate against the Sumatra article.

From the official correspondence of Mr. Fish with the Dutch minister at Washington (Foreign Relations 1873) it seems that the Government of the United States have for some time maintained that "the venerable document" known as the treaty of 1782 with the United Provinces is not in force. \* \* \*

I shall feel obliged in case you have examined into the question for an expression of your views as to whether the treaty in question is still in force, and for any other or further advice you may have to impart in connection with this Sumatra tobacco agitation.

I have &c.

ISAAC BELL, JR.

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[Inclosure in No. 88.]

*Mr. Bell to Mr. Van Karnebeek.*

LEGATION OF THE UNITED STATES,  
The Hague, Netherlands, December 21, 1885.

SIR: I have the honor to inform your excellency that I have been instructed to apprise His Majesty's Government of the fact, that in the opinion of the Government of the United States the measures now before the States General providing for an increase of duty upon refined petroleum imported into Dutch colonies from 5*d.* to 1*s.* 6*d.* per case, will if adopted be prejudicial to the commercial relations at present existing between the two countries.

It is the policy of the Government of the United States, by a judicious legislation as well as by any other means in its power, to encourage the growing trade between

the two countries, a policy which I believe has hitherto had the earnest concurrence of the Government of His Majesty.

The proposed duty, however, under existing conditions of trade, virtually amounts to a prohibition upon the importation of petroleum into the Dutch colonies, and cannot, therefore, be regarded as being levied for revenue purposes.

There is no native product in either colonies or mother country that needs protection or that is able to supply the place of petroleum. The measure cannot, therefore, be regarded as one of protection.

As there is no country on either continent, apart from the United States, that can furnish an illuminating oil of such a high quality as is now imported into the Dutch colonies, it is not surprising that the Government of the United States should regard the proposed duty as one leveled directly against trade interests of my country.

In the year 1885 the total imports into the United States from the Netherlands and her colonies amounted in value to \$9,566,427. Of this total \$5,414,599, or more than half, was subject to no duties whatever under the tariff of the United States.

The showing is even more striking when the trade of the colonies alone is considered.

Of a total import trade from the Dutch West Indies of \$3,261,671, more than 91 per cent., or \$2,991,490, was admitted free of duties.

In the trade with the Dutch East Indies the imports not subject to duty were more than seven times as large as those on which duties were assessed.

In the trade with Dutch Guiana only one-fifth of the imports paid duties at our custom-houses.

Few countries of Europe are so little affected by the tariff of the United States as the Netherlands.

The United States in 1883 removed all duties from spices, which formed, next to sugar, the chief article of export from the Dutch colonies, and this repeal resulted in conferring substantial advantages upon those colonies by throwing open to their products an extensive and rapidly increasing market.

The advantages already secured by the Government of His Majesty through the legislative action of the United States should be taken as an earnest of a wish on the part of the United States to remove restrictions upon trade, and to invite and encourage an increase of the commercial relations between the two countries.

The proposed increase in the duty on petroleum imported into the Dutch colonies can only be regarded as a measure of a contrary tendency, and calculated not only to impede but to destroy an extensive commercial interest which can exist only through the mutual advantages accruing through it to both parties to the exchange.

The importance of the trade in petroleum between the United States and the Dutch colonies may be seen from the following facts:

During the fiscal year ending June 30, 1885, the value of the total exports of domestic merchandise from the United States to the Dutch East Indies was \$2,103,066, and to this total petroleum contributed \$2,024,732. The entire export trade of the United States to those colonies may thus be said to rest upon this one article.

The importance of this commodity in the trade with the Netherlands and the other colonial possessions of that country is somewhat less, but still of no small proportion. Of a stated export trade to the Netherlands of \$16,634,137 petroleum forms nearly one-eighth, \$2,047,597.

The prejudice arising from the proposed change in duties would not be confined to the trade between the United States and the Dutch colonies, but would also affect injuriously the commercial relations between the United States and the mother country.

This injury would not apply to petroleum alone, but to general commerce, when the interests at stake are far greater.

To level a blow at so important an article of export as petroleum is to the United States must create a prejudice against the nation that struck the blow.

The present measure threatens a direct loss in petroleum of upwards of \$4,000,000, and involves an indirect loss of an unknown extent upon the import and export trade between the two countries, which, without petroleum, amounts to more than \$25,000,000 annually.

These considerations, and others which might be mentioned, show that the proposed measure if adopted will be a cause of dissatisfaction in the United States and may lead to serious embarrassment in the commercial relations of the two countries. I have therefore the honor to invite your Excellency's attention to the subject, with the hope that an examination of the question by His Majesty's Government will result in the abandonment of a measure so much in conflict with the views entertained by the Government of the United States.

I seize this opportunity, &c.,

ISAAC BELL, JR.

*Mr. Bell to Mr. Bayard.*

No. 91.]

LEGATION OF THE UNITED STATES,  
*The Hague, December 26, 1885. (Received January 9, 1886.)*

SIR: Referring to my No. 88, of the 22d instant, in which I give an account of my interview with the minister of foreign affairs when presenting the opinion of the Government of the United States relative to the effect on the commerce of the two countries in case pending measure looking to an increase of the duty on petroleum imported into the colonies, were adopted.

I now have the honor to inform you that the minister of finance, on the 23d instant, presented to the Second Chamber of the States General a project for imposing import duties in the Netherlands upon petroleum, sawn timber, and southern fruits, fresh and preserved, and for increasing the duties on tea.

This new project of the Government, presented to the Chamber almost immediately after the presentation to the foreign office here of the views of the Government of the United States relative to the injurious effect upon the commerce of the two countries by the adoption of the pending measures looking to the levying of duties on petroleum imported into the colonies, and before a written answer had been returned to my note relating thereto, appears to be a positive indication that this Government has no intention to recede from its position.

This special and exceptional measure will at all events constitute an additional embarrassment in the way of further negotiations, and will, if adopted, have in its realization very grave inconveniences to our trade in the Netherlands as well as in the colonies. \* \* \*

It is estimated that the sum of 1,000,000 florins will be realized from this project.

The statistical reports recently issued by this Government show that 88,675,757 kilos of petroleum were imported into the Netherlands from the United States during the year 1884.

It will, then, be seen that of the entire amount (1,000,000 florins) which is to be raised, that American petroleum is expected to pay over 800,000 florins, the proposed duty being at the rate of 1 florin per 100 kilos.

Ship-building timber, another item extensively imported from the United States, will contribute a large proportion of the remaining 200,000 florins.

It is a noticeable fact that in the reading of the proposed measure the duty is to be levied upon "sawn wood fit for construction of ships, imported by sea without breaking bulk."

The present policy of the Government, if carried out, must necessarily lead to a serious derangement of the trade between the two countries.

\* \* \* \* \*

It is not necessary to give any further outline of the present project than that it directly strikes two items of American commerce in the Netherlands, and was presented at a time and under circumstances which do not seem to leave any doubt as to the intention of the Government.

I inclose herewith a translation of the proposed project, immediately after the presentation of which the States General adjourned until February, so no consideration of the measure can be held until then.



In connection with the duty on timber suitable for ship-building, I may add that in the trade statistics of the Netherlands for 1884 I find the following items :

|                                              | Kilos.        |
|----------------------------------------------|---------------|
| Import, by sea, from the United States ..... | 49, 034, 465  |
| Sweden .....                                 | 203, 790, 650 |
| Russia .....                                 | 224, 272, 000 |
| Germany .....                                | 33, 978, 869  |

In addition to this the import from Germany overland amounted to 162,250,000 kilos, which, owing to the geographical position of the countries, was *nil*.

The project consequently seems to greatly favor the commerce with Germany.

I have, &c.,

ISAAC BELL, JR.

[Inclosure in No. 91.]

The minister of finance has presented to the Second Chamber of the States General a project tending to modify the present customs tariff of the Netherlands, as follows:

| Merchandise.                                                                                        | New tariff.      |                 | Old tariff.  |                 |
|-----------------------------------------------------------------------------------------------------|------------------|-----------------|--------------|-----------------|
|                                                                                                     | Unit.            | Rate.           | Unit.        | Rate.           |
|                                                                                                     |                  | <i>Florins.</i> |              | <i>Florins.</i> |
| Almonds.....                                                                                        | 100 kilos ..     | 8               | 100 kilos .. | 4               |
| Lemon and orange peel preserved.....                                                                | do ..            | 6               | Value.....   | 5 per cent.     |
| Ditto, not preserved .....                                                                          | do ..            | 1. 50           |              |                 |
| Wood :                                                                                              |                  |                 |              |                 |
| Ship-building (fit for the construction of naval and civil, imported by sea without breaking bulk). | The cubic meter. | 0. 30           |              |                 |
| All other kinds, with the exception of unsawn (fit for the construction of ships).                  | Value .....      | 3 per cent.     |              |                 |
| Raisins from Corinth .....                                                                          | 100 kilos ..     | 3               | 100 kilos .. | 1. 50           |
| Raisins, dried, not specially denominated .....                                                     | do ..            | 4               | do ..        | 2               |
| Petroleum .....                                                                                     | do ..            | 1               |              |                 |
| Melon peel preserved .....                                                                          | do ..            | 6               |              | 3               |
| Tea .....                                                                                           | do ..            | 40              |              | 25              |
| Figs .....                                                                                          | do ..            | 2               |              | 1               |
| Fruits and grapes not specially tariffed.....                                                       |                  |                 | Value.....   | 5 per cent.     |
| Oranges from China .....                                                                            | 100 kilos ..     | 1. 25           |              |                 |
| Dates .....                                                                                         | do ..            | 1. 40           |              |                 |
| Chestnuts .....                                                                                     | do ..            | 1. 20           |              |                 |
| Oranges .....                                                                                       | do ..            | 1               |              |                 |
| All other fruits .....                                                                              | Value .....      | 5 per cent.     |              |                 |

The product of the increase is estimated by the minister at the sum of one million florins.

No. 353.

Mr. Bell to Mr. Bayard.

No. 105.]

LEGATION OF THE UNITED STATES,  
The Hague, January 21, 1886. (Received February 3.)

SIR: In my No. 88, of the 22d ultimo, I transmitted a copy of my note of the 21st ultimo to the Netherlands foreign office, in which I had embodied the substance of your instructions of December 8 last, and

at the same time I reported my conversation with the minister of foreign affairs at the time of the delivery of the note in relation to the pending project of this Government to increase the duty on petroleum imported into the colonies of the Netherlands.

I now have the honor to report that the minister of foreign affairs, in reply thereto, sent me a communication on the 18th inst., of which I inclose herewith a translation.

This communication fully confirms the information which I have from time to time been able to send you in relation to the view of this Government with regard to the pending measure.

In the future consideration of this question it seems to me important to note that the minister of foreign affairs has expressed his regret that the remonstrance should have been formulated while the ministerial project proposing the increase of the duty on petroleum was pending before the States General.

In my interview with his excellency I have been careful to keep clearly in view the fact that the remonstrance related to the supposed effects of a projected measure and not to the result or operation of existing laws.

It will be seen that the minister of foreign affairs questions the correctness of the figures mentioned (as the rate of duty) by the Department, and maintains that it should be stated at 1s. 2d. per case instead of 1s. 6d.

The rate actually proposed is 2 florins per hectoliter, which, according to my calculation, is equivalent to 80.8 cents for each 22 gallons.

In view, however, of the position of his Excellency the difference of calculation is of slight consequence.

He claims that the proposed measure is purely fiscal in its nature, and should not be regarded in the character of a blow at the commerce of the United States; that the Government of His Majesty have relieved certain industrial and agricultural interests of taxation, and in compensation therefor have been forced to levy a duty on other products to regain their losses.

As an evidence of the fiscal nature of the proposed project he cites the fact, before referred to by me, that the minister of the colonies is now consulting with the colonial authorities with a view to a change of the project from an import duty to an excise tax, and suggests that if such a course is adopted it will be a still further proof that the project is not intended as a prohibitive measure or a blow at the commerce of the United States.

If such a step is now taken it seems to me that it should, in all justice, be regarded as a positive guarantee of the earnest desire of this Government to so shape their fiscal legislation as to foster and encourage the petroleum trade.

He maintains that a duty of 2 florins per hectoliter will not diminish the importation of petroleum into the colonies, for two reasons:

- (1) That the article is indispensable.
- (2) That the population can without any inconvenience support the additional charge.

It has occurred to me that, in view of the fact that the remonstrances in question relate to the supposed effect of a projected measure, this position raises an issue which cannot be determined by argument, but only by the actual operation of the measure when it becomes a law.

His excellency maintains that the minister of the colonies (who has had years of personal experience in the colonies) has, after consultation

with well-advised authorities in the colonies, reached the conclusion that petroleum will stand the proposed tax without any diminution of the imports, otherwise the object of the Government would be defeated.

This position, it seems to me, is not to be controverted by argument.

It will also be noticed that he maintains that a prohibitive character should not be attributed to the project, and has in support of this view cited the provisions of the treaty concluded November 18, 1884, between the United States and Spain, which provided for the admission of petroleum into Cuba and Porto Rico at what he maintains was a higher rate of duty than 2 florins per hectoliter—that now proposed by the Netherlands.

The provisions of that treaty cannot, in my opinion, be successfully invoked in aid of his Excellency's position for several reasons, among the most important of which I may mention—

(1) The treaty has not been ratified.

(2) The difference in freight and insurance, as well as the difference in the condition and circumstances of the inhabitants, may operate in such a manner as to make the duty prohibitive in the Netherlands colonies, whilst it remained oppressive only in Cuba and Porto Rico.

It will appear to you, I think, on reading it, that the distinct avowal of the minister of foreign affairs that the Netherlands colonies can and will pay this additional duty without inconvenience to themselves and without injury to our commerce, and that this point was carefully and thoroughly considered by the Government before formulating this project, precludes the further discussion of the conjectural effects of the measure, especially as his Excellency has already expressed his regret that the remonstrance should have been formulated at this stage.

It will be noticed that he has reserved exceptions to the accuracy of the statistical figures presented by the Department in regard to the commerce between the United States and the Dutch West Indies.

It will also be seen that he claims that the liberal treatment of American products in the Netherlands guarantees a moral right to expect similar treatment for the Netherlands products in the United States, and after referring to the long-continued efforts of this Government to successfully invoke the aid of the provisions of existing treaties in behalf of their colonial products, cites the case of Sumatra tobacco to show that the legislation of the United States was shaped with the openly avowed purpose to strike that article, and expresses the hope that the good intentions of the United States may take a practical shape by defeating the purpose of the parties who are at present strongly agitating a further blow at Sumatra tobacco.

In relation to the Sumatra tobacco agitation I have to submit the following observations for your consideration.

The cultivation of tobacco on the island of Sumatra on an extensive scale may be said to date its origin from the organization of the Deli Company of Amsterdam, February 19, 1870, which had for its capital \$200,000, and for its object the clearing and cultivation of land situate near Deli, on the eastern coast of Sumatra.

I have not been able to obtain the early returns of this company, but it is reasonable to suppose that the profits were large, for on the 9th June, 1877, another company, the Arendsburg, having a similar object and with a capital of \$400,000, was organized at Rotterdam.

The figures at hand, which were obtained from reliable sources, show that the Deli Company has paid the following dividends, in addition to



the accumulation of a reserve fund of double the capital, for the following years:

|                | Per cent. |
|----------------|-----------|
| 1878-'79 ..... | 37        |
| 1879-'80 ..... | 33        |
| 1880-'81 ..... | 37        |
| 1881-'82 ..... | 65        |
| 1882-'83 ..... | 101       |
| 1883-'84 ..... | 77        |

The Arendsburg has declared the following dividends:

|                                                      | Per cent. |
|------------------------------------------------------|-----------|
| 1879-'80 (the second year of its organization) ..... | 22½       |
| 1880-'81 .....                                       | 25        |
| 1881-'82 .....                                       | 25        |
| 1882-'83 .....                                       | 50        |
| 1883-'84 .....                                       | 60        |

There are no data at hand to show the amount of the reserve fund accumulated by this company.

It will be noticed that his Excellency maintains that the United States, in the year 1883, have seen fit to insert in their tariff a special provision with the object openly avowed to trammel the importation of Sumatra tobacco.

The section referred to by his Excellency reads as follows:

Leaf tobacco of which 85 per cent. is of the requisite size and of the necessary fineness of texture to be suitable for wrappers, and of which more than one hundred leaves are required to weigh a pound, if not stemmed 75 cents per pound; if stemmed \$1 per pound.

As his Excellency here remarks, the object of this measure was well understood.

In acknowledging the note of the minister I have limited myself to saying that I would forward a copy to the Department and await its further instructions before making a reply thereto.

I have, &c.,

ISAAC BELL, Jr.

[Inclosure in No. 105.—Translation.]

*Mr. Van Karnbeek to Mr. Bell.*

THE HAGUE, January, 1886.

MR. MINISTER: In the communication which you have seen fit to address me on the 21st of December of the preceding year, you have in the name of your Government protested against the measure proposed by the Government of the King to the States General to raise the import duty upon petroleum in the Netherlands colonies of the East Indies to 1s. 6d. per case.

In declaring that it is the policy of the Government of the United States to encourage on its side the increasing commerce between the two countries by a judicious legislation, as well as by all means in its power, in disclosing the desire of your Government to free commerce of restrictions and to develop the commercial relations between the two countries, you have expressed the belief that the projected measure will constitute in its effect a prohibition of the importation of petroleum in the Netherlands colonies, and that it will be a blow struck directly at the commercial interests of the United States which will create a prejudice against the nation which has directed the blow, and will lead to serious complications in the commercial relations between the two countries.

The Government of the King, Mr. Minister, has not failed to give to these grave observations all the consideration which is their due, but wholly regretting that they have been formulated with regard to a measure which it proposes to take, it has not clearly convinced itself that they are well founded.

First, permit me to remark that the import duty, such as has been submitted to the States General, will not amount to 1s. 6d. per case, according to your estimation, but to 1s. 2d., according to the calculations of the minister of the colonies.

But the projected measure has not and will not have the character of a blow directed against the commerce of the United States. It is purely of a fiscal nature and made part of a remodeling of taxation by which the Government has on one side relieved industry and the agricultural population of certain taxes, and on the other retrieved the loss which this relinquishment of the revenues caused the treasury to undergo, and to increase its financial resources.

With this object a revision of the tariff has been undertaken by the minister of the colonies, who has examined with the greatest care what are the articles which can support an increase of import duty and to what point this increase can go without having for a result a diminution of the importation; for it is evident that this result will tend to defeat the object itself which the Government has in view.

Now, the minister of the colonies, after having consulted the most competent authorities and commerce itself in the Indies, is convinced that a duty of two florins per hectoliter will not tend to diminish the importation of petroleum, which has become an indispensable article for the Indian population, who can without any inconvenience support this charge.

The projected measure has therefore nothing prohibitive, and should not in all justice give occasion for any sentiment of prejudice.

Moreover, I am the less disposed to think that your Government would wish to attribute to it the prohibitive character as in the treaty concluded the 18th November, 1884, with Spain; the United States have, if I am not mistaken, admitted an import duty of more than two florins per hectoliter upon petroleum imported directly from the United States to Cuba and Porto Rico.

Now, the Government of the United States have certainly not voluntarily admitted in this treaty a prohibitive duty upon one of the principal American products.

I can nevertheless inform you, Mr. Minister, that since the project of law for the remodeling of the colonial tariff was submitted to the States General it is a question to submit petroleum in the Netherlands colonies of the East Indies to an excise tax in place of an increase of the import duty.

The minister of the colonies has consulted in this respect with the government of the Indies since the month of November, and it is very possible that the increase of revenue for the treasury which it must draw from the consumption of petroleum will be after all in the form of an excise tax and not in the form of a duty on imports.

This will be a greater proof that it is certainly not the prohibition of petroleum imports that we seek.

The Government of the King has received with satisfaction the declarations contained in your aforesaid letter manifesting the desire of the Government of the United States to encourage and to develop the commerce between the two countries, and to free it of obstacles.

I espouse the cause with great pleasure. But I have not observed without surprise the tendency of your communication to place by comparison the commercial policy of the Netherlands under a light less favorable on account of those liberal ideas.

Now since long years the commercial policy of the Netherlands is distinguished among all as the most liberal. It is known that the duty on imports is extremely moderate. It is entirely free from all tendency of protection to the national industries. It admits commerce, navigation, and foreign products alike to nations without making any difference, without seeking to prohibit or to trammel foreign competition, and only directed with the single object to offer to international commerce the greatest facilities.

Permit me to observe, Mr. Minister, that, on the contrary, for a number of years, the tariff of the United States is based upon entirely different principles, and, from the statements of a great number of your own economists, it is protectionist to a high degree.

Permit me also to recall first that it was at the end of long negotiations, of long years of fruitless expectation to have recognized in practice the right which our commerce had by the treaties to be exempt in the United States from the surtax upon indirect importations of colonial products from beyond the Cape of Good Hope, and afterwards the United States, in the year 1883, have seen fit to insert in their tariff a special provision with the object openly avowed to trammel the importation of one of our principal articles of commerce—Sumatra tobacco.

And with the same object it is actually a question very strongly agitated in the United States to proceed more energetically still for an increase of the duty upon tobacco wrappers.

Certainly, Mr. Minister, if measures of international commercial policy can give rise to a sentiment of displeasure, it will be measures of this nature, and I cannot conceal from you that in effect—as you can, however, determine for yourself—they will cause in the Netherlands an excitement with which the Government of the King will have to deal in time, the more so as on our side the products of the commerce of the United States enjoy a perfectly liberal treatment, which in our eyes creates a moral right to reciprocity.

I have not desired to inquire to what point the facts which I have presented are in accord with the liberal declarations which you have seen proper to make in your communication in the name of your Government.

I prefer to accept the declaration as an indication of a change of commercial policy, and I am flattered with the hope that the first guarantee of this liberal tendency towards the Netherlands will be the defeat of the efforts which are being made actually to-day in the United States to hinder still from advantage the importation of our colonial tobacco.

After the considerations which I have had the honor to expose above, Mr. Minister, I believe that it is useless to enter into an examination of the statistical figures of commerce between the two countries contained in your communication.

I should nevertheless permit myself to make some reservation with regard to their exactitude.

For example, I do not well understand those which you have been good enough to give in relation to the commerce between the Netherlands colonies in the West Indies and the United States, which represent, according to you, a value of importations to the United States of \$3,261,671, of which more than 91 per cent. were admitted free of duty, whilst a fifth only of the importations from Netherland Guiana have had to pay import duty to your customs.

For according to our statistics, in leaving the coast, the exportations from Curacao to the United States, which are not in any case very considerable, we have only exported in 1884 from Surinam to the United States to a value of 1,150,660 florins, principally in cocoa, sugar, and gold. If I am not mistaken these products are all subject to an import duty from the tariff of the United States.

It seems to me, however, that it is not the place to investigate these differences, and I finish, Mr. Minister, by profiting of this occasion to renew, &c.,

V. KARNEBEEK.

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No. 354.

*Mr. Bayard to Mr. Bell.*

No. 44.]

DEPARTMENT OF STATE,  
Washington, February 8, 1886.

SIR: In your dispatch No. 82 of 14th December last you made a comprehensive and valuable report touching the Sumatra tobacco trade. \* \* \*

It is unfortunate that the impression should have so largely gotten abroad in Holland that the tariff act in this respect was intended to especially disfavor Sumatra tobacco or that it permits the wrapper tobacco of other countries to enter at lower rates of duty. The measure is believed to have been intended to favor the production, in the United States, of tobacco especially prepared for wrappers, of which large quantities are exported even to cigar-making countries, like Cuba. Comparatively little of the world's tobacco production is adapted to this use, and our legislation, based on the characteristics of the home grown leaf, could not be expected to traverse the wide areas of production in order to make sure that no other country or district produced a leaf having the same features but applicable perhaps to other uses.

The tariff distinction being between "wrappers" and "fillers," it was necessary that no sudden line should be drawn, and that provision should exist for the legitimate mixed packages, in which the leaf, taken as it comes on the field, may be partly of wrapper quality and partly of the "fillers" grade. The law being intended to prevent barshness to *bona fide* shippers of mixed leaf, the *bona fides* of the transaction is of the essence of the application of the law. \* \* \*

I inclose for your information a copy of a circular instruction, issued by the Secretary of the Treasury on the 3d instant to the collector of customs at New York, which provides for breaking up mixed bales, classi-



fyng the wrapper and filler grades separately, and assessing duty on each.

This circular is sent to you in advance of its formal publication, in order that you may be prepared to meet any remarks on the subject coming from the minister of foreign affairs.

As a fact, wrapper and filler tobacco from Sumatra respectively enter the United States at the same rates of duty as wrappers and fillers from any country whatsoever. The treatment being equal, there should be no room for complaint. \* \* \*

The minister for foreign affairs must surely recognize the propriety of a tariff distinction between wrappers and fillers. He must also admit that any definition of wrapper-tobacco leaves must be faulty which does not comprise those leaves suitable and intended for use as wrappers. Wrappers must possess at least three requisites. They must be large enough, they must be thin enough, and they must be of sufficiently even fineness of texture. The tariff act makes the union of these three requisites necessary to the imposition of the higher duty.

If the law should be found to discriminate, in fact, against Sumatra tobacco; if the leaf produced there answers to the definition of wrappers, but cannot be used for wrapping, that fact should be made clear. It is observed that the minister's representations to you on this point are vague. It is one thing to allege existence of discrimination; it is another to show wherein the fact of discrimination consists. You should exhibit a frank readiness to hear any statement of fact the minister may make to you. If Sumatra tobacco cannot be used for wrappers, but through any technical error of classification is made dutiable as such, it should be easy to demonstrate the fact and devise a remedy. But if the real trouble of the case should prove to be that Sumatra wrappers suitable and intended for use as wrappers are made dutiable as wrappers in common with wrapper leaf from any other part of the world, the complaint of the Dutch Government would seem to lose whatever force it may derive from the allegation of discrimination.

I am, &c.,

T. F. BAYARD.

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[Inclosure in No. 44.—Circular.]

*Mr. Fairchild to collector, &c., New York.*

TREASURY DEPARTMENT,  
Washington, D. C., February 3, 1886.

SIR: Referring to Department's ruling of May 1, 1882 (S. 6324), concerning the classification of leaf tobacco, it is understood that the present practice at your port is not in strict conformity with the rule therein laid down, which was advised by the United States Attorney-General, the classification of such tobacco being, in fact, made upon examination of average samples drawn from the bales containing the tobacco, by reason of which it is subjected to a duty of 35 cents per pound only, when, in fact, a large portion thereof in each bale consists of the "wrapper" class, of which 85 per cent. is of the requisite size, and of the necessary fineness of texture, to be suitable for wrappers, and of which more than one hundred leaves are required to weigh a pound, which is dutiable at 75 cents per pound.

The rule laid down by such decision for ascertaining the proper classification of such leaf tobacco, which has lately been affirmed by the United States circuit court of New York, in the suit of Falk against Robertson, is that the different bales and packages, which, as admitted by all parties, contain two different kinds or qualities of the wrapper class, should be broken up, and each different quantity of each class separated, for the purpose of classification, so that the portion consisting of the class above mentioned should be subjected to a duty of 75 cents per pound, as prescribed by Schedule E (T. I., new, 246), and the other portion, which does not come up to that standard, should be subject to a duty of 35 cents per pound under T. I., new, 247.

You are therefore directed to conform the practice at your port in the classification of such leaf tobacco to such ruling, and for that purpose you will require at least one bale in ten of every invoice to be thoroughly examined by the appraiser, and if tobacco subject to the two different rates of duty be found therein, that the quantity of each be ascertained by an actual assorting of the "hands," and that the proportion of each sort so ascertained shall determine the proportionate parts of the whole invoice for the purpose of classification at the different rates of duty.

In case importers object to the opening and actual examination of such representative bales, the whole quantity should be assumed to contain wrapper-leaf tobacco of the class paying the highest rate of duty.

Respectfully, yours,

C. S. FAIRCHILD,  
*Assistant Secretary.*

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No. 355.

*Mr. Bell to Mr. Bayard.*

No. 112.]

LEGATION OF THE UNITED STATES,  
*The Hague, February 19, 1886. (Received March 4).*

SIR: I have the honor to report that upon inquiry I learn that the chambers of commerce of several of the most important cities of the Kingdom, including Amsterdam and Rotterdam, have presented protests to the Second Chamber against the project of law looking to an increase of the import duty upon petroleum, wood, &c., into the Netherlands.

All of the chambers have protested especially against the proposed duty on petroleum.

In the first place, they contend that the duty would affect the commerce in the article, and especially object to it because the increased price would strike a product chiefly consumed by the laboring people.

I have, &c.,

ISAAC BELL, JR.

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No. 356.

*Mr. Bell to Mr. Bayard.*

No. 117.]

LEGATION OF THE UNITED STATES,  
*The Hague, February 27, 1886. (Received March 15.)*

SIR: Referring to previous correspondence in reference to the project of the Government to impose an import duty on petroleum imported into the Dutch East India colonies, and especially to my No. 105, of the 21st January last, in which I stated:

As an evidence of the fiscal nature of the proposed project, he (the minister of foreign affairs) cites the fact before referred to by me, that the minister of the colonies is now consulting with colonial authorities with the view to a change of the project from an import duty to an excise tax, and suggests that if such a course is adopted it will be a still further proof that the project is not intended as a prohibitive measure or a blow at the commerce of the United States.

If such a step is taken, it seems to me that it should, in all justice, be regarded as a positive guarantee of the earnest desire of this Government to so shape their fiscal legislation as to foster and encourage the petroleum trade in the colonies.

I have now the honor to report that in an interview with the minister of foreign affairs to-day, I was authorized to state that this ministry have modified their project as follows:

The import duty to remain at 6 per cent. ad valorem for the present, until the introduction of an excise tax, which, it is said, will be fixed at 1.75 florins (1 florin and 75 cents) per hectoliter; in which case, it is said, the import duty will be fixed at 25 cents per hectoliter.

As the details of this new measure are to be perfected in the colonies the Government here are unable to specify a date upon which the proposed excise will take effect in event of the project becoming a law.

The modified project will, it is said, still encounter many adversaries in the Second Chamber.

I have, &c.,

ISAAC BELL, JR.

No. 357.

*Mr. Bell to Mr. Bayard.*

No. 119.]

LEGATION OF THE UNITED STATES,  
*The Hague, March 1, 1886. (Received March 15.)*

SIR: In a recent interview with the minister of foreign affairs, I considered it useful and prudent to make use of the sense of the expression contained in your No. 44, of the 8th ultimo, to the effect that it was unfortunate that the impression should have so largely been prevalent in Holland that the United States tariff act was intended to discriminate against and especially disfavor Sumatra tobacco.

The minister responded that the impression might be unfortunate, but it was nevertheless well founded, as it was clearly indicated by the declarations made in the Senate while the project was under discussion by that body, that its provisions were especially intended to operate against the Sumatra production.

His excellency said that no formal remonstrance had heretofore been made against the operation of the act, because the Dutch people, desirous of avoiding controversies, were willing that the law should remain as it is, but that the present dissatisfaction arose from the proposed measures looking to an increase of the tax to \$1 or \$1.50 per pound.

I again intimated to his excellency that I would be glad to communicate to my Government any statement which he thought proper or desirable to make in support of his views.

His excellency at once replied that he had already communicated with the Dutch minister at Washington, Mr. Weckerlin, upon the subject, but that he would also willingly avail himself of my suggestion.

I concluded by giving him clearly to understand that I would gladly hasten to communicate to you any views he had to offer.

I have, &c.,

ISAAC BELL, JR.

No. 358.

*Mr. Bell to Mr. Bayard.*

No. 127.]

LEGATION OF THE UNITED STATES,  
*The Hague, March 15, 1886. (Received March 29.)*

SIR: I have the honor to report that the Second Chamber of the States General has commenced the discussion of the treaty concluded between Germany, Switzerland, and the Netherlands respecting the salmon fishery in the Rhine.



This discussion will continue during the early part of the week.

After the vote upon the treaty has been taken, the Chamber will occupy itself with the project of law looking to a revision of the customs tariff of the East Indies.

Three important amendments to the ministerial project have been announced in the Second Chamber.

By the first of these amendments it is proposed to re-establish in the Indies the protection system by taxing foreign merchandise imported into the Indies double the duty levied upon similar articles imported from the mother country.

The object of the second amendment is to provide a system of customs union between the mother country and the Indies, the most important feature of which is its proposal to abolish all export duty on all India articles destined for the mother country except tin and birds' nests.

It is proposed by the third amendment to abolish all export duties on all articles exported from the colonies, without regard to their destination, with the exception of tin and birds' nests.

With regard to the feeling of the Chambers upon these amendments, it is claimed by those who are in a position to be well informed that it is quite likely that the first and second amendments will be rejected.

There seems to be a strong feeling against the re-establishment of the system of differential duties abolished in 1872.

Should the third amendment be adopted, which seems doubtful, it will abolish the export duties upon the following articles exported to the United States: Coffee, sugar, tobacco, indigo, and tea.

The ministerial project, which has been the subject of former correspondence, to levy an excise tax on petroleum imported into the colonies, will be discussed at the same time.

I will attend the sessions of the Chambers during the discussion of the latter project, and apprise you of the result.

I have, &c.,

ISAAC BELL, JR.

No. 359.

*Mr. Bayard to Mr. Bell.*

No. 49.]

DEPARTMENT OF STATE,  
*Washington, March 20, 1886.*

SIR: I have received your dispatches Nos. 117 and 119, of the 27th ultimo and 1st instant, all in reference to the correlated questions of the taxation of petroleum in Holland and Sumatra tobacco in the United States.

As far as can be seen from your reports, the Netherlands Government does not so much except to the present duties in this country on wrapper and ordinary tobacco as it erroneously apprehends a positive discrimination against the specific Dutch product of Sumatra, which might operate to exclude it, and it alone, from our markets, and that the contemplated Dutch legislation in respect of petroleum imports is suggested by this unfortunate apprehension.

To meet such a misconception was the motive of my instruction No. 44, of 8th February.

Where a peculiar class of tobacco is grown in America and Asia, which by its fineness and freedom from veins is adapted solely for use

as wrappers, and because of such use brings a price double or treble that of ordinary leaf tobacco, it is proper that an intelligent tariff measure should take cognizance of the difference in application and value, and prescribe specific or ad valorem duties accordingly. That the more valuable product may be the growth of a limited area, perhaps of one or two countries only, does not make the duties, if corresponding to value, unjustly discriminatory; neither does the fact that a certain kind of valuable tobacco grown in East India and the Malay Archipelago, is known to trade as "Sumatra tobacco," make the imposition of proportionate duties thereon a discrimination against the Dutch possession from which it takes its name. It is the *kind* of tobacco and the use to which it is put that govern the assessment of duties, and not the country where it grows.

It seems necessary to a clear examination of the matter that any idea that the existing tariff of the United States is designedly unfriendly to Holland should be dispelled. It is not to be supposed that the Dutch Government will contend that wrapper tobacco, which by its physical characteristics and greatly enhanced price is readily separable from all other grades of tobacco, is not properly dutiable at a rate proportionate to its market price.

It was the undoubted intention of Congress, in framing the present tariff of 1883, that wrapper tobaccos, which had within a few years only begun to be imported in competition with the domestic growth, should pay a higher rate of duty than ordinary tobaccos; and it was equally the intent of the law that it should apply only to such leaf as is imported for use as wrappers. The duty is not aimed at the occasional imported leaves which may be separated and do duty as wrappers, after a fashion, but at the leaf grown expressly for wrappers and fit for no other profitable use.

The simple question is, whether tobacco from any foreign country, and especially from the Dutch colonies, which may not be suitable for use as wrappers and does not command the market price of wrappers, is, under the present tariff, compelled to pay duties as wrappers; and, conversely, whether foreign leaf, suitable and intended for use as wrappers and valued as such, finds entry at the common rate of duty.

On due establishment of either fact it will be in order to seek a remedy.

I do not understand that any complaint is made of excessive rates of duty under the present tariff. Indeed, it is not seen how there could be; for any readjustment of the duties on foreign wrappers proportionate to their price as compared with the common grades of leaf, or even with the market value of the domestic wrapper-leaf, would probably result in higher duties than at present.

I am, &c.,

T. F. BAYARD.

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No. 360.

*Mr. Bell to Mr. Bayard.*

No. 147.]

LEGATION OF THE UNITED STATES.  
*The Hague, June 7, 1886. (Received June 21.)*

SIR: I have the honor to report that it appears that before the adjournment of the States General the Government deposited in the bureau of the Second Chamber a reply to the representations contained

in the petition addressed to the Second Chamber by the agriculturists from various provinces requesting the imposition of an import duty on cereals.

In the reply which has recently been printed, the Government maintains that the imposition of the duty demanded would be contrary to the general interests of the state.

I have, &c.,

ISAAC BELL, JR.

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No. 361.

*Mr. Bell to Mr. Bayard.*

No. 160.]

LEGATION OF THE UNITED STATES,  
*The Hague, July 23, 1886. (Received August 7.)*

SIR: Referring to my No. 150 of the 10th ultimo, in which I reported the opening in this city of an international conference for the purpose of establishing order among the fishermen of the North Sea by putting an end to the abuses growing out of the traffic in spirituous liquors, I have now the honor to inclose herewith, for the information of the Department, three copies in the Dutch text of the law of June 15, 1883, promulgating the treaty in the French text of May 6, 1882, between Belgium, France, Denmark, Germany, and Great Britain and the Netherlands on the question of the fishing-police in the North Sea, and also three copies in the French text of the Procès-Verbaux of the International Conference held at the Hague June 10 to 25, 1886.

Your attention is especially invited to the particulars communicated to the conference by the British delegates.

(1) To the extract from a report on the North Sea fisheries, presented by Admiral Gordon-Douglas and Mr. Malan to the British Admiralty in November, 1884, a copy of which is inclosed herewith, and the original of which may be found printed on pages 23, 24, Annexe II, Procès-Verbaux.

(2) To the cases of "floating grog-shops in the North Sea," referred to in Annexe III, on page 12-15, Procès-Verbaux, a copy of which is also inclosed herewith.

(3) To the annexe found on page 74, a copy of which is also inclosed, marked No. 5, containing the particulars respecting the quantity of spirits and tobacco to be taken on board a smack which was about to start for the North Sea.

It is understood that the representations made to this Government as well as to the other powers parties to the treaty of 1882, respecting the cases of disorder and scenes of dissipation which have arisen in connection with the liquor traffic amongst the vessels of the North Sea fisheries, fully confirmed the particulars and circumstances presented by the British delegate.

It appears that evils arising therefrom had become so widespread as to reach the homes of those who were dependent upon the fishermen for their support.

At all events the circumstances left no room to doubt that immediate remedies were imperatively demanded.

The Netherlands Government having taken the initiative the conference was convened at this capital.

By reference to the proceedings it will be observed that several interesting questions were discussed, amongst others, that respecting the



right of visit and surveillance (fourth session, June 17, page 39-47, *Procès-Verbaux*).

It will be seen that after a full exchange of views upon that subject, the delegates agreed to adopt the principle that the supervision or surveillance should be exercised in accordance with the provisions of Article 26 of the convention of May 6, 1882, with a number of designated cruisers, the names of which must be communicated to the contracting powers.

It will also be seen that it was agreed that the intervention of the cruisers should be regulated conformably to the provisions of the convention of Paris of March 14, 1884, for the protection of submarine cables (page 47).

By reference to the proceedings of the third session, June 12, 1886, page 28-38, it will be seen that the questions relating to the modification of the customs laws of the several states were also the subject of discussion.

The exceptional position of the ports of Bremen and Hamburg was referred to by the German delegate to show that it would not be possible for Germany to introduce legislative measures contrary to the provisions of the German constitution guaranteeing freedom to those ports.

It is thought that the measures agreed upon by this conference, if finally adopted by the several Governments parties thereto, will prove efficacious in improving the condition of the fishermen.

I have, &c.,

ISAAC BELL, JR.

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[Inclosure 1 in No. 160.]

*Extract from report on the North Sea fisheries, by Admiral Gordon-Douglas and Mr. Malan, dated November, 1884, presented to the Admiralty.*

#### COOPERS.

In the course of our inquiries we heard frequent mention of coopers, though we found it extremely difficult to obtain any definite information as to the evil they undoubtedly work amongst fishermen and boys, especially in the trawling fleet.

The coopers, or "floating grog-shops," chiefly hail from German and Dutch ports, and visit most parts of the North Sea where trawlers congregate. They are, as a rule, of the tonnage and rig of fishing vessels, some being registered and numbered as such, while others sail as trading vessels.

One or two English smacks have been known to be engaged in "coopering," but they generally end by being sold in a foreign port, and trade under a foreign flag.

The distinguishing mark of a cooper is a flag or bit of bunting on the forestay. They trade in tobacco and spirits of vile quality, in scents, and latterly in immoral and obscene cards and photographs.

A cooper seldom remains more than three days with a fishing fleet, but passes from one to another until his stock is exhausted.

The whole trade of the cooper is most immoral and degrading. Fishermen are tempted to barter their owner's warps, nets, ropes, sails, and fish for the drink, and the boys and apprentices are demoralized by the obscene pictures and cards so freely disposed of.

The drunkenness and debauchery consequent on a visit to a cooper have often terminated fatally. We may instance the skipper of the *Mizpah*, of Yarmouth, who was drowned in February, 1884, and the skipper of the *Columbia*, of Grimsby, who was drowned or murdered in September, 1882, whilst more recently a murderous assault was made by the mate of a cooper upon a Grimsby skipper during a drunken brawl.

Undoubtedly cheap tobacco is in many cases the first cause of a visit to the cooper, and in our opinion a great blow would be struck to the trade if fishermen could obtain their tobacco elsewhere at the same price, and we would suggest that every smack, or at least the "admiral," or say one smack in every fifty sailing in company should be allowed to have a supply of tobacco out of bond for disposal at sea.

This would probably check the evil, though there is no doubt that as long as coopers infest the North Sea some fishermen will find an excuse for going on board.

As codmen do not fish in company, and herring drifters do not keep the sea for more than three days, coopers cannot trade much among them, and they are therefore almost unknown to fishermen in the north of England and Scotland.

As these coopers are not always registered as fishing vessels, the commanders of cruisers have no right under the North Sea fishery convention to board them or make any inquiries. We are, however, of opinion that they should be instructed when possible to make note of any boats dealing with coopers, that they may be reported to their owners ashore.

The coopers whose names we have been able to ascertain from fishermen are as follows, though the port of registry may not always be reliable:

| Present name.              | Present home port. | Former name.            | Former home port. |
|----------------------------|--------------------|-------------------------|-------------------|
| Diedrich.....              | Geestemünde.....   | Billow.....             | Grimsby.          |
| Swallow.....               | Nieuwediep.....    | Christabel.....         | Colchester.       |
| Caroline.....              | Geestemünde.....   | Earl of Garborough..... | Grimsby.          |
| Anna Helene.....           | do.....            | Majestic.....           | Hull.             |
| Delphine.....              | do.....            | Bocklesby Skipper.....  | Do.               |
| Christina (or Martha)..... | Nieuwediep.....    | Merchant.....           | Grimsby.          |
| Merchant.....              | Schiedam.....      |                         |                   |
| Cosmopolite.....           | Ems.....           | Two Sisters.....        | Do.               |
| Unknown.....               | Ostend.....        |                         |                   |
| Kenan.....                 |                    |                         |                   |

[Inclosure 2 in No. 160.]

#### *Floating grog-shops in the North Sea.*

It has from the nature of the circumstances involved been impracticable to obtain exact particulars regarding the larger proportion of the very numerous cases of disorder which have arisen in connection with the traffic carried on by these vessels. No one acquainted with the North Sea fisheries would however think of disputing the fact that grave and widespread evils exist. Mr. Higgins's report, made in 1881, gave a vivid picture of the shocking occurrences to which the liquor traffic then gave rise. Subject to one qualification it may be said that there is no reason to suppose that there has since been any material alteration in the aspect of the matter. The qualification is that some mitigation of the evils is said to have been effected in particular trawling fleets with which the smacks of the "Mission to Deep-Sea Fishermen" cruise, through the moral influence of the presence of the mission smacks, which are in reality floating churches and hospitals. But this mission is a voluntary agency, dependent for funds on the gifts of charitable persons, with consequently no guarantee for the maintenance and extension of its work.

In a letter to the Times newspaper, dated April of this year, the director of the above mission gave the subjoined extract from a communication then just received by him from the Great Grimsby Ice Company, which is of interest as an illustration of the surroundings of the question of the floating grog-shops. The "Edward Auriol" here mentioned is one of the mission smacks.

"We are informed that the 'Edward Auriol' left our fleet on the 26th March, and there has not been a mission vessel near them since. There is a cooper in the fleet now, and is doing a very great deal of harm. A lot of the men went on board for tobacco, and instead of getting the latter they got that infernal drink. The men got wild with drink, and many of them did not get on board their own vessels, and some of them have come in and left the vessels at the fleet undermanned. This state of affairs is terrible."

Since 1881 the board of trade have continued to receive the same class of representations in general terms regarding the evils of this traffic as they did previously to Mr. Higgins's inquiry. Shortly before the departure of the British delegates from England a petition was received from owners, masters, and crews of fishing-smacks, praying for the prohibition of the traffic, and stating their belief "that by the abolition of this abominable traffic great blessings will be conferred not only on the men who man the trawling smacks and on their wives, children, and relations, but on the owners of the smacks and on the property afloat in them." To this petition one thousand four hundred signatures were attached, and there is little doubt that had time allowed the number of signatures could have been enormously increased.

The following are particulars regarding certain cases of liquor traffic, the circumstances of which have come within the special cognizance of the British Government:

## "MIZPAH," OF YARMOUTH.

This English smack was one of a fleet engaged in fishing during February, 1884, when they were joined by a floating grog-shop named the "Swallow," said to be under the Netherlands flag. Drink was obtained from the "Swallow," and a carouse took place in the cabin of the Mizpah. Her master then went on deck and fell overboard, being intoxicated. Owing to the drunkenness prevailing on the Mizpah the manœuvres requisite for saving the master were not executed, and the unhappy man was drowned under the eyes of his crew. The mate of the Mizpah was prosecuted and convicted for having failed to take the necessary steps for saving the life of the master.

## DISORDERS OFF TERSCHELLING.

In consequence of a report made to them as to injury sustained by the mate of the fishing-smack Holmesdale, of Great Yarmouth, in May, 1884, the board of trade instituted an investigation. This was conducted by the mayor of Yarmouth, the collector of customs at Yarmouth, and a barrister acting as their legal assistant.

It was elicited that on Sunday, the 11th May, 1884, some one hundred and thirty British fishing-smacks, forming the Columbia fleet, were off Terschelling. They were accompanied by a steamer for carrying fish home when taken by the smacks. Three floating grog-shops, said to be Netherland vessels, were also with the fleet, and were selling spirits and tobacco to the smackmen during the day.

The Holmesdale, a fishing-smack of Yarmouth, with a crew of six hands, was one of the fleet. About 9 a. m. her master, fourth hand, and deck hand, left her, taking with them the fish caught over night, and proceeded to the Edith and Mary, a smack lying near. The master boarded the Edith and Mary and sent on his small boat with the fish to the steamer. On leaving the steamer the two men from the Holmesdale went to a grog-shop, from which they bought three bottles of aniseed cordial, an intoxicating liquor, and conveyed it to their own vessel, where they commenced drinking.

The master of the Holmesdale returned to her in about two hours. He was seemingly aware of what was going on, but though he took no share in the drinking he made no effort to check it. After a time he returned to the Edith and Mary, taking with him his deck hand, and these two men stayed on board that vessel until late in the evening.

Drinking continued on board the Holmesdale all day, more aniseed cordial being from time to time obtained from the grog-shop. Other liquor was brought from a smack called the Robert and John, which came alongside the Holmesdale, and a general drinking bout ensued among men of both crews. Late in the afternoon the master of another smack, the Robert and Susanah, joined them. During the day there was much drunkenness on board the Holmesdale, which received visitors from some smacks besides those already named.

About three in the afternoon the admiral of the fleet signaled for all vessels to run west. The Holmesdale lagged behind, and her master consequently had difficulty in rejoining her. He reached her about 9 p. m., and found only members of her own crew on board, but was informed that just before two men from other smacks had left her the worse for liquor. At this time Jonah George, second hand of the Holmesdale, was lying at the tiller in a tipsy state. The master desired him to leave the tiller; George refused, and was pushed away. He then became quarrelsome. A sort of scuffle ensued, and he fell twice, on the second occasion dislocating his shoulder and injuring his face. This necessitated his being sent back to Yarmouth by the attending steamer for medical treatment.

As a result of the investigation Jonah George, second hand of the Holmesdale, Alfred Charles Teck, master of the Robert and Susanah, and Frederick Powles, second hand of the Robert and John, were found to have been guilty of gross misconduct and drunkenness. Their certificates were consequently suspended for periods of two and three months.

The gentlemen who conducted the investigation animadverted thoroughly on the conduct of the master of the Holmesdale, and regretted having been unable to punish him, it having been necessary, in the interest of justice, to call him as a witness. In concluding their report on the matter they observed, "The present case offers one more example of the great evils which are done to the fishing interests of the country by the system of coöperage, and we are of opinion that some immediate remedies are imperatively demanded."

## CASE OF THE "ANNE-HELENE," OF GEESTEMÜNDE.

On the 19th August, 1884, the masters of four English smacks from Grimsby, when about 30 miles from the Danish coast, went on board a floating grog-shop known familiarly among the fishing-fleets as the "Green" owing to her color. They met other English fishermen on board, and had some liquor. Afterwards a dispute arose between one of the Englishmen named William Bashcomb and the mate of the grog-



shop, in respect of some fish which were on board, and some violence resulted. A brother of Bashcomb being present took part with his relative and received two stabs with a knife from the mate of the grog shop. The mate then jumped below and was seen no more, but the master of the vessel appeared in the companion with a revolver. When the latter perceived that one of the Bashcombs was seriously hurt, he rendered what assistance he could, and the wounded man was transferred to one of the smacks and brought home for treatment. He eventually recovered.

The German Government instituted proceedings against the mate of the grog-shop, this vessel proving to be the *Anna-Helene* of Geestemünde.

The tribunals however acquitted the man, it being considered that the accused had acted in self defense, and had not exceeded the limits thereof.

#### "FLYING SCUD," OF YARMOUTH.

This trawler left Yarmouth on an eight weeks' fishing voyage near the end of July, 1884, and was duly provisioned at starting. Her usual master was prevented from going with her, but joined her at sea some three weeks later. In the interval she was commanded temporarily by another certificated master, who, shortly after reaching the fishing-ground, sent word home that she was four pieces of beef short in her provisioning, and asked that this alleged deficiency should be made good. The owner's suspicions were aroused, and he directed the actual master on his going out for the purpose of taking command to "see after" the beef. The latter neglected to make a personal investigation, and trusting to the mate's version, reported the beef to be six pieces short. The other master on giving up command returned to port and received his pay without any special remark.

When the Flying Scud came back to Yarmouth it transpired that during the command of the man first temporarily employed as master, and under his orders, beef, biscuit, and salt from her provisions were given in exchange for liquor and tobacco, to a floating grog-shop to which several visits were paid. The nationality of the grog-shop is not known. During the period in question the man who was acting as master appears to have been drunk at least twice, and on one occasion to have broken a bottle of grog over the cook's head.

#### CASES OF THE "DIEDRICH" AND THE "ANNA."

The circumstances under which these two floating grog-shops, which are German vessels, were plundered by English fishermen in the North Sea in the year 1884, are too notorious to call for exact recital at this moment. Whilst it will be remembered that sentences of imprisonment were passed by the English court on several English fishermen, it seems proper to point out that the men concerned in the matter of the *Diedrich* were the worse for liquor, which they had obtained on board her in the ordinary course of her traffic.

It further appears from a report of the commanding officer of the British cruiser *Rose*, that in about a month after the plunder of the *Diedrich* she was again the nucleus of a scene of dissipation and misconduct amongst fishing-smacks in the North Sea.

[Inclosure 3 in No. 16c.]

#### *Annexe.*

The British delegates have to-day (24 June) received from Hamburg the following particulars respecting the quantity of spirits and tobacco to be taken on board a smack named the *Delphin*, which is shortly to start for a trip in the North Sea:

| Articles.                                  | Quantity taken on board. | Price at sea.               |
|--------------------------------------------|--------------------------|-----------------------------|
| Dutch shag tobacco .....                   | pounds.. 2,000           | 1s. 6d. per pound.          |
| Chewing tobacco .....                      | boxes.. 15               | 2s. per pound.              |
| Rum .....                                  | bottles.. 200            | 1s. 6d. per bottle.         |
| Grog essence .....                         | do.. 50                  | 2s. per bottle.             |
| Double caraway brandy .....                | do.. 100                 | Do.                         |
| Raspberry liquor .....                     | do.. 50                  | Do.                         |
| Cherry liquor .....                        | do.. 12                  | Do.                         |
| Dutch gin .....                            | do.. 250                 | 1s. 3d. per bottle.         |
| Peppermint liquor .....                    | do.. 30                  | 2s. per bottle.             |
| Annisette (large and small) .....          | do.. 100                 | 2s. and 1s. 6d. per bottle. |
| Dantzig (large and small) Goldwasser ..... | do.. 100                 | Do.                         |
| Cigars .....                               | 3,000                    | Various prices.             |
| A quantity of pipes .....                  |                          |                             |

They learn from the same source that the price at which the above liquor is sold to fishermen is two shillings per bottle, and that it can be bought at Hamburg for five-pence per bottle. They further learn that this particular smack during last season, from April to October, accomplished eight trips, extending as far as the coast of Scotland.

## No. 362.

*Mr. Bell to Mr. Bayard.*

No. 161.]

LEGATION OF THE UNITED STATES,  
*The Hague, July 28, 1886. (Received August 9.)*

SIR: I have the honor to report that after three days' discussion the Second Chamber of the States General, in its session of the 24th instant, by a vote of 45 to 30, adopted the project of the address, in reply to the discourse from the throne, submitted to the Chamber by the committee named for this purpose.

The discussion this year had a special interest by reason of the result of the late elections, and especially in view of the fact that the Chamber decided by a vote of 73 to 2 that the address should not be limited to the consideration of the subjects mentioned by His Majesty in his discourse from the throne.

During the three days' discussion much time was devoted to the subject of a reform of the military and administrative abuses in the Dutch colonies of the East Indies—especially in Atcheen—without reaching any practical result.

The liberal journals of the country generally demand that the Chambers should give precedence to the subject of colonial abuses over all other questions.

It is understood here that a malady known as the "*veriberi*," somewhat similar to cholera, and arising from bad nourishment, has caused great ravages in the army in Dutch India.

The same journals earnestly demand the appointment of a special committee of inquiry to ascertain the causes of this illness.

The Chamber in an explicit manner pronounced upon the question of the revision of the constitution and upon the electoral question.

The following is the tenor of the paragraph bearing upon that question:

It is the conviction of the Chamber that it will be in the interest of the state to give to the subject of electoral rights more liberty in future legislation, and to add to the new constitution stipulations providing for the immediate extension of the electoral right beyond the limits fixed by the present constitution.

Several ministerial projects, including the new stipulations concerning the excise upon sugar and the proposed modifications of the constitution, are now in the hands of the committees of the Second Chamber.

I have, &amp;c.,

ISAAC BELL, JR.

## No. 363.

*Mr. Bell to Mr. Bayard.*

No. 162.]

LEGATION OF THE UNITED STATES,  
*The Hague, July 30, 1886. (Received August 9.)*

SIR: I have the honor to report that disorders of a very serious character have recently occurred at Amsterdam, resulting in the death of 22 persons and the wounding of some 90 others.

It is said that the immediate cause of the present difference between the authorities and the people is due to the attempted enforcement by the police of a local ordinance of Amsterdam prohibiting a popular game among the people known as "*palling-trekken*," which literally means eel-drawing.

As the suppression of this popular amusement is reported to have given rise to so much bloodshed, I deem it proper to place you in possession of the actual facts of the case by reciting in detail the particulars of the so-called sport.

It appears that the people, after collecting together at some suitable spot on the street through which the canal passes, subscribe a sum of money, usually from 2 to 5 cents each, which makes up a common pool to be divided and distributed in prizes, usually in sums of 5 florins (\$2) each to be given to those who successfully draw the eel.

It appears that the amount of subscription in each case is limited, in order to increase the interest in the sport by increasing the number of subscribers.

A rope is securely stretched across the canal at a suitable distance or height from the water. From this rope a live eel is suspended by means of a cord fastened to its neck.

Those desiring to test their skill enter in turn boats provided for the purpose, and while standing in the boat are rapidly pulled under the suspended eel. If, while passing, the contestant succeeds in taking hold and subsequently holding on to the eel and detaching the trunk from the head, he not only keeps the eel, which is a favorite article of food with the people, but also secures a money prize.

In the effort or struggle to firmly grapple and hold on to the eel the party usually falls into the canal, where he is subsequently picked up by one of the boats provided for the purpose.

Some years since the authorities of the several large cities of Holland, having reached the conclusion that this amusement was demoralizing and brutalizing, attempted to put a stop to it by passing ordinances to that effect.

It seems that the people of Amsterdam simply ignored the ordinance of that city forbidding them from engaging in their favorite pastime, and upon the police attempting to enforce them a collision ensued, in which some twenty-two people lost their lives and some ninety others were wounded.

It is generally claimed in well informed circles that the disturbance should not be accepted as an indication of the hold that eel-drawing has upon the popular mind, but as more correctly showing that the people see in this prohibitive ordinance special legislation, intended to curtail their rights, and especially their amusements.

The people of this country have a limited number of pastimes, and they appear to regard this legislation only as an interference with their sport by people who do not regard it as amusing.

It may be mentioned, however, that during the disturbances which ensued the red and black flags were freely displayed by the people, and the demonstration, which is said to have had its origin in a protest against the suppression of a popular game, is reported to have assumed more or less of a socialistic character.

The authorities have thought it advisable to concentrate all available troops at a point convenient to Amsterdam in anticipation of further trouble on the day of the funeral of the victims.

The many rumors and reports of the growing distrust and uneasiness



between the people and the authorities are not susceptible of complete verification.

The situation in Amsterdam is said to be especially strained, and may result in serious trouble at no distant day.

I have, &c.,

ISAAC BELL, JR.

No. 364.

*Mr. Bell to Mr. Bayard.*

No. 166.]

LEGATION OF THE UNITED STATES,  
*The Hague, August 18, 1886. (Received August 31.)*

SIR: I have the honor to report that I have recently learned from sources which may be considered as authoritative that the recent surveys in the islands of Java and Sumatra have brought to light the existence of petroleum wells of apparent considerable value.

In order to fully explore and to ascertain the approved system of working them the minister of the colonies has commissioned Mr. A. Stoop, an officer of engineers, to visit the United States and Canada, to thoroughly study the methods employed there for such work.

I have, &c.,

ISAAC BELL, JR.

No. 265.

*Mr. Bell to Mr. Bayard.*

No. 168.]

LEGATION OF THE UNITED STATES,  
*The Hague, Sept. 1, 1886. (Received September 14.)*

SIR: I have the honor to report that during a recent session of the Second Chamber, and just prior to its adjournment, the president of that body announced that he had received from Mr. Borgesias a motion, supported by ten other members of the Chamber, proposing a parliamentary inquiry into the labor system of the Netherlands. The object of this proposition is twofold:

(1) To ascertain what measures should be adopted to prevent excessive long hours of work.

(2) To ascertain what improvements are necessary in the construction and sanitary condition of the work-shops, factories, &c., in order to assure the health and well-being of the work-people.

The proposal was referred to the appropriate committee of the Chamber, and will be discussed after the opening of the new parliamentary session at the end of the month of September.

During the same session Mr. Gildermester, a deputy from Amsterdam, addressed to the minister of the colonies an interpellation respecting the sugar industries in Java.

Mr. Gildermester demanded of the minister precise information relative to the measures he proposed to adopt to provide for the deplorable situation of the sugar industry of Java caused by the excessive fall in prices.

The minister of the colonies replied that he was waiting for further information from Java before submitting to the Chamber a scheme looking to the amelioration of the sugar industry of that island.

The minister further stated that the Government was entirely convinced that a catastrophe to the sugar industry in Java could only be averted by the prompt adoption of remedial measures by the Government.

I have, &c.,

ISAAC BELL, JR.

## CORRESPONDENCE WITH THE LEGATION OF THE NETHERLANDS AT WASHINGTON.

No. 366.

*Mr. de Weckerlin to Mr. Bayard.*

LEGATION OF THE NETHERLANDS,  
*Washington, February 15, 1886. (Received February 15.)*

In pursuance of instructions received from my Government, I have the honor to ask your kind attention to Schedule F of the tariff now in force in the United States of America.

Paragraphs 2 and 3 of that schedule have no other object than to hamper, as far as possible, the importation of leaf tobacco from Sumatra, without doing the same to leaf tobacco from other countries. They virtually provide for the imposition of a duty of 75 cents and \$1 per pound (which is excessive) on our product, while they permit the importation of a similar product on payment of a duty of 35 cents per pound. They thus seek not only to exclude our tobacco from the American market, but they establish a difference of custom-house usage to our detriment.

My Government cannot avoid considering whether this legislation, which some persons desire to render still more onerous, is in harmony with the usage accorded in the Netherlands to imports from the United States, or with the efforts which we are constantly making to extend our commercial relations with North America.

Long would be the list of articles produced in the Netherlands which are not permitted by the tariff of March 3, 1883, to find a market in the United States. Notwithstanding this fact, and although many other productions of the Netherlands are subjected to very high duties in this country, although the United States compel our vessels to pay tonnage dues, while vessels carrying the American flag are obliged to pay no such charge in the Netherlands, the productions of the soil and industry of the United States are admitted into our country on the basis of a tariff which (with a few exceptions that have been introduced for the purpose of meeting the requirements of the treasury) grants, in general, exemption from duties to unmanufactured articles, and only subjects semi-wrought and manufactured articles to duties amounting to about from 3 to 5 per cent. ad valorem. No discrimination is made to the detriment of the United States, and American goods arriving in the ports of the Netherlands are treated there on a footing of perfect equality with similar productions from other countries.

The aforesaid provisions of Schedule F being, therefore, wholly at variance with the liberal principles enforced by our commercial policy with respect to the United States (which, in our opinion, ought to be

sufficient to protect us against any measures like those now under consideration), the treatment of Sumatra tobacco in this country may give rise to well-founded apprehensions as regards general commerce between the two nations.

The value of the exports from the United States of America to the Netherlands and their colonies during the fiscal year 1884-'85 was, according to American statistics, upwards of \$19,000,000. The exports of the Netherlands and their colonies to the United States amounted, during the same period, to about \$9,000,000. Can it be expected that this annual exportation of about nineteen millions will be increased, or will even be maintained at its present figure, if the United States continue to close their markets more and more to what we have to offer them in exchange?

To raise this question is probably equivalent to settling it. The broad views that characterize you, Mr. Secretary of State, render it unnecessary for me to enter into details on this subject.

They also render it superfluous for me to point out how greatly exaggerated are the fears of the planters of "seed leaf," who are the only ones that fear the competition of Sumatra tobacco.

It therefore merely remains for me to express the hope that the United States Government will have the kindness to examine the statements which I have just presented for your consideration, and that it will be pleased to cause the enactment of the legislative measures necessary to place Sumatra tobacco in the United States on a footing of equality with tobacco from other countries, and to prevent our tobacco from being excluded, by an excessive duty, from its natural place among the principal articles of commerce between the two countries.

Be pleased to accept, &c.,

G. DE WECKERLIN.

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No. 367.

*Mr. Bayard to Mr. de Weckerlin.*

DEPARTMENT OF STATE,  
Washington, March 9, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo, in which you invite the attention of this Government to Schedule F of the tariff now in force in this country, and allege that paragraphs 2 and 3 of said schedule discriminate against the importation of leaf tobacco from Sumatra.

In reply, I beg to inform you that this subject had already come under our observation through the reports of our minister at The Hague, and the intimations which have reached us with more or less of authenticity that the Government of the Netherlands contemplates resort to the disastrous policy of retaliation for conjectural grievances, resting on erroneous premises and strained conclusions.

Without prejudice to the fuller reply to be hereafter made, it may be remarked that your note seems designed to close the door to any tariff distinction between "wrapper leaves" and "fillers," and to demand equal treatment, notwithstanding the different uses, qualities, and prices of these two classes.

Adding that the subject will have impartial consideration.

I beg, &c.,

T. F. BAYARD.



## PERU.

No. 368.

*Mr. Buck to Mr. Bayard.*

No. 57.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, December 4, 1885. (Received December 26.)*

SIR: In my No. 56, of last Saturday, 28th ultimo, you were advised that the situation here seemed very serious.

On Saturday evening, after dark, the several diplomatic representatives here received a manifesto from Colonel Solar, General Cáceres' general minister, dated at Vitarte (about 4 miles from Lima), November 27, of which I inclose a copy and translation.

At once, by concert with the French minister, Count Piná, the English, Italian, and Spanish ministers and myself met at his legation to consider the situation. We had not time, owing to the urgency of the case, to get together all the members of the diplomatic corps in a formal meeting.

We agreed that the manifesto from General Cáceres, in view of his near position, should be accepted, not as grounds for making any representations to the Government, but as a notice from an invading force of imminent danger, in conjunction with the visible preparations being made by General Iglesias in the very heart of the city for a combat, justifying the liveliest feelings for the safety of our several colonies.

We therefore unanimously resolved to address to the minister of foreign affairs the note of which I inclose a copy and translation.

This action was taken between 10 and 11 o'clock at night, after due interchange of views; and the note was placed in the hands of the chancellor of the French legation to be delivered at once.

He, however, did not succeed in finding the minister of foreign affairs, and was informed at the palace that orders had been issued to receive no dispatches whatever during the night, and the note was not delivered until 8 o'clock Sunday morning.

The reply of the minister of foreign affairs was not made until the afternoon of same day, and was evasive, simply acknowledging receipt of the note and stating that the subject-matter would have to be considered by the cabinet and, as soon as that had been done, he would advise us. Meanwhile, at ten o'clock on Sunday morning, the whole diplomatic corps convened at the house of the dean (the Chilean minister), and it was resolved unanimously, in view of the imminent peril, in the interest of humanity, to tender the good offices of the corps to ascertain if they could be of any service in avoiding a combat in the streets of the capital.

A memorandum was formulated, of which I inclose copy and translation, and the Italian, Argentine, and Bolivian ministers were appointed as commissioners to communicate the same. This they did, and the result is announced in a note of which only the inclosed translation has been furnished me.

\* \* \* \* \*

As will be observed from the note of General Cáceres, he had established himself within about 4 miles of Lima, at Vitarte, on November 27.

Combats followed on Saturday and Sunday; and on Monday, November 30, there was active fighting all day, between the advancing skir-

ish line of General Cáceres and outposts and skirmishers of the Government.

The two lines occupied positions with their right resting on the river Rimac, south of the stream, and extending across a level stretch to the foot of the hills and thence along the crest of parallel ranges in the segment of a circle to the southeast, some three miles. The sharpest fighting occurred when the Cáceristas captured the peak, some 1,400 feet high, called San Bartolomé, when two pieces of Government artillery were taken between 9 and 10 a. m., and at the Government's right, where its forces had artillery stationed, which was captured by the Cáceristas late in the evening.

Through the whole two days of fighting without the city, the Cáceristas made constant advances, taking position after position, and finally driving the Government forces into the city late Monday evening.

Early in the day the noted negro cavalry leader, Colonel Pachas (chief of the squadron of Polica), was killed, and his death seems to have had a demoralizing effect on the Government troops.

The general line of fighting along the hills could be seen from the house-tops of Lima, and was watched by thousands of people in towers and on the roofs.

The Government occupied the mountain of San Cristobal, more than 1,100 feet high, just to the north of the city, on Monday evening. It is almost an inaccessible peak and overlooks the city and country for miles, until in one direction the view is cut off by the higher peaks of the Cordilleras, and in the other it is limited by the far-away horizon line of the Pacific. This was the extreme limit of their occupation to the north.

In connection with the city, north of the Rimac the Iglesias forces occupied the old bridge Desamparados, stretching their line behind its stone battlements and thence, under cover of the buildings to the American railroad station of Desamparados, just opposite the northeast corner of the palace fronting on the main plaza, the palace itself having been converted into a formidable citadel. They also occupied the house-tops to the north of the palace, the cathedral towers to the north of the plaza, and commanded with artillery and gatling guns the streets running east and west along the front and rear of the palace and the next parallel street south of the plaza, and also the two streets running north and south along the other two sides of the palace and the plaza. They also occupied the artillery barracks in the southeast part of the city, and the principal church towers; notably those of San Francisco, San Pedro, San Domingo, Mercedes, and San Augustin, all of which are formidable fortresses in themselves; and from their superior elevations overlook the palace and the plaza within easy rifle-shot.

The Cáceristas entered the city during Monday night to the east, through the old "Porrada de Maravillas" into the "Calle de Anehas," and through the "Portada de Barbines" into the "Calle de Juuin." Along these streets they could approach by oblique lines under cover to the center of the city, and from them distribute themselves into position without being raked by fire from the palace and plaza, except as they crossed the streets commanded at right angles from the strongholds of the Government. Thus they occupied with their right the "Puente de Viterbo"—more commonly known as "Battas Bridge"—a splendid iron structure, and approached the church of San Francisco, which they stormed and captured, thus gaining a splendid position within one square of the palace, with an open plaza in front, and threw up a barricade of large stone slabs, taken from the sidewalks, across the entrance to San

Francisco plaza, looking towards the palace. With that small plaza thus covered, they could handle their men and artillery from the church and behind their protections. Thence they extended their lines along the Calle de Abancay, throwing up barricades at the intersection of the three streets Junin, Muallaga, and Ucayali, which were commanded by the fire of the Government troops from the palace, plaza, and at the corner of the streets Ucayali and Carabaya.

The legation where we were stationed during the fight is in the street Carabaya, between the plaza and the corner of Ucayali. Behind each of their barricades the Cáceristas had cannon, and for the first time in the history of street fighting in this country artillery was used by the attacking force, and the explosion of shells added to the general horrors of a battle in the heart of a great city.

Early in the day, Tuesday, the Cáceristas captured the towers of San Pedro, and from that point on their left to San Francisco on their right, and from the towers of those two churches, there was the heaviest firing during the day.

An attack was made on the artillery barracks at one time, but it was soon abandoned, and at another a force of Cáceristas climbed the peak of San Cristobal and drove down the steep sides toward the city the Government troops who were from their lofty cover keeping up a harassing fire on that part of their force stationed at "Battas Bridge," but after a most wonderful feat in scaling steep slopes so precipitous that a man can with difficulty climb them unincumbered, they found the place was not worth sparing men to occupy, and they gave it up in order to concentrate their force along the main line of fight, as indicated, in the designated streets.

The firing began before 6 o'clock a. m. and lasted until 6.30 p. m., when the Government asked for a truce. Thus was ended one of the most brilliant and remarkable military achievements of which I know any record; indeed, so remarkable that only success, which overrides all rules, could make its conception appear other than the promptings of despair or the rashness of reckless adventure.

The obscurity of the field of action and the smallness of the forces involved alone can keep it from centering upon General Cáceres the eyes of the world.

After the battle of Jauja, and what must have been a serious loss, he marched his army of over 2,000 men about 200 miles from Huari-pampa, in the Tambo, to Lima, across the rugged Cordilleras, almost without roads, over the ice and snows of the mightiest mountains, stopping only two days *en route* for rest, encountering almost intolerable hardships, yet sometimes making 30 miles a day with his soldiers on foot leading their horses, which were loaded with arms, provisions, and cannon, the latter being taken to pieces and strapped on pack saddles. Of this distance only about 85 miles was aided by railroad.

At Chila, the terminus of the Oroya road, he captured one locomotive and ten cars, and, although the Government had destroyed bridges on the line, \* \* \* he had these put in place and with such scant railroad facilities had transferred his army down the gorges of the Rimac to Lima in twelve days after the battle of Jauja, and in four days more he had driven the Government forces, larger than his own, superbly equipped and armed, from every position on the outskirts of the capital, corralled them in the walls of their inner defenses within the heart of the city, and forced the Government, with all its superior resources, and behind its central fortress, to sue for a peace which conceded virtually just the terms he had always consistently demanded.



The Government claimed before the combat to have 3,700 men, but I doubt if they really had more than 2,500. Perhaps Cáceres did not have under his command more than 2,300 men when he entered the city.

The wounded in the hospitals are stated as follows: Government forces, 14 officers and 79 soldiers; Cáceristas lost 20 officers and 112 soldiers; citizens, 30. The number of dead is not given.

Tuesday evening, after thirteen hours of fighting, the minister of foreign affairs, communicated with the Brazilian minister, whose residence was most accessible, the firing being too heavy to reach other legations, and stated that the Government desired to suggest terms for peace, and wished to accept the good offices of the diplomatic corps.

These terms were stated verbally, but were as recorded in the act, written in General Cáceres's headquarters, of which I inclose copy and translation.

Of course great haste was needed, as General Cáceres had announced when the truce was asked, unless an arrangement was effected by noon of Tuesday he would reopen fire, so a pen copy had to be obtained afterwards.

Meanwhile General Cáceres, upon the truce being asked, had communicated to the French minister by note his desire that an arrangement should terminate bloodshed, and indicated his inclination to abide by the same terms which he had repeatedly suggested before.

The diplomatic corps convened at the Chilean minister's at 10 o'clock Wednesday morning, and concluded to proceed in a body with the terms suggested by General Iglesias to General Cáceres' headquarters, and on behalf of the Government lay them before him.

Upon presenting the matter General Cáceres stated the terms were virtually those he had repeatedly himself proposed and were in accordance with his views, so they were, for purpose of definite record, put into writing, and signed in duplicate by General Cáceres, and each member of the diplomatic body. One copy was left with General Cáceres; the dean took the other, and the whole corps proceeded at once to the palace, presented the document to President Iglesias and his foreign minister, and it was signed by him, and a copy made and left with the minister of foreign affairs.

I have only to add that these preliminaries being accomplished, General Iglesias named as commissioners on the part of the Government Monseñor Tovar, Dr. José Nicolas Rebaza, and Dr. Manuel A. Barinaga, and General Cáceres on his part Messrs. Carlos M. Elias, José Gregorio Garcia, and Dr. José Eusebio Sanchez.

These six commissioners met in the Spanish legation, and formulated the conditions for the formation of a new provisional Government, and named the several members of the new cabinet as follows: President of the council and minister of foreign affairs, Dr. Antonio Arenas; minister of Government, police and public works, Dr José Eusebio Sanchez; minister of justice, public instruction, and beneficence, Monseñor Dr. Manuel Tovar; minister of war and navy, Colonel Manuel Velarde; and minister of the treasury and commerce, Pedro Correa y Santiago

\* \* \* \* \*

I have the honor, &c.,

CHARLES W. BUCK

[Inclosure 1 in No. 57.—Translation.]

## MANIFESTO.

VITARTE, November 27, 1885.

**MOST EXCELLENT SIR:** The gravity and most high importance of the events about to occur in search of a solution which may put an end to the fatal struggle in which the forces of General Iglesias are engaged against the opinion of the country, oblige me to address myself in the name of his Excellency, the provisional President of the Republic, to your excellency as a worthy member of the diplomatic body resident at Lima.

General Iglesias, against all precepts of right and human laws, is engaged in maintaining his personal authority at the cost of Peruvian blood already profusely shed, and intent upon the pursuit of this end has converted the capitol of the Republic and the Government palace into a military fortification, compelling even neutrals to sacrifice themselves at the altar of his foolish ambition.

Hard as may be so cruelly bloody a sacrifice, unavoidable duties prevent my Government from refusing to take sides in this, it being the only bulwark behind which General Iglesias sustains his unpatriotic Government. Only he and those who being able and perhaps in duty bound to do so, fail to prevent the sad consequences, will be responsible for the same.

I am, then, under the necessity of informing your excellency of the determination of my Government to seek General Iglesias within the formidable intrenchments of the palace as the only means existing of accomplishing the task imposed upon it by the nation. Not the least responsibility will rest upon us on account of the blood that will be shed there, nor the horrors accompanying such an event.

It is hereby certified, notwithstanding, that General Cáceres is still disposed to desert from the employment of force and to resign the authority with which he is invested immediately General Iglesias does the same, thus leaving the people free to exercise their will without violence or coercion.

It is my honorable duty to inform your excellency of the intentions and sentiments that animate my Government in the present question. Hoping your excellency will take such steps as may appear just and proper in view of the common calamity with which all are threatened,

I subscribe myself, &c.,

PEDRO A. DEL SOLAR,  
*General Minister of General Cáceres.*

[Inclosure 2 in No 57.—Translation.]

*Note of portion of the diplomatic corps to Mr. Urrutia.*

LIMA, November 28, 1885.

**MR. MINISTER:** Consequent upon accounts received from good sources and in view of the visible military preparations which have been going on for some days at the Government palace, the undersigned unfortunately feel themselves justified in fearing an imminent attack upon the city of Lima.

Being intrusted with the protection of the interests of their respective countrymen, the painful impression made upon them by the prospect of a battle threatened to be fought in the streets of the city and the well-founded alarm caused to them, in consequence, cannot escape the foresight of the Government. It being, under the circumstances, incumbent upon them in so far as they may be able to do so before it be too late to take efficient measures for the protection of their charges, the undersigned earnestly beg your excellency to be so good as to inform them without delay whether the Government has really determined to offer battle in the capital itself to the forces that actually threaten her.

Awaiting a prompt and explicit reply and formulating from this moment the most ample reservations as to the responsibility regarding the damages that may accrue to their respective colonies, the undersigned avail themselves of this opportunity to renew to your excellency the assurances of their high consideration.

BUCK.  
PINÁ.  
EMILIO DE OJEDA.  
E. DE GUBERNATIS.  
C. MANSFIELD.

[Inclosure 3 in No. 57.—Translation.]

*Note from diplomatic corps to Mr. Urrutia.*

In Lima, on the 29th day of November, 1885, met together the Envoys Extraordinary and Ministers Plenipotentiary, Mr. Jovino Novoa for the Republic of Chili, Mr. Jacinto Villegas for the Argentine, Mr. Charles W. Buck for the United States of America, Mr. José Manuel Braun for Bolivia, and the Comte de Piná for the Republic of France; the resident ministers, Mr. Hermann A. Schumacher for the Empire of Germany, Mr. Emilio de Ojeda for His Christian Majesty, Mr. Enrique de Gubernatis for His Majesty the King of Italy, Mr. Charles Mansfield for Her Britannic Majesty, and the Chargé d'Affaires, Mr. Enrique de B. Cavalcanti de Lacerda, for the Empire of Brazil, and Mr. Shu Cheon Pon for the Empire of China, and agreed upon the following:

"The diplomatic corps, in view of the present state of affairs and of the possibility of a combat taking place in the city of Lima, think it a duty to humanity to offer to the Government of Peru their good offices in so far as these can serve to avoid the calamities and disasters of this combat."

It was also agreed to name Messrs. Villegas, Braun, and Gubernatis to present a copy of this act to the minister of foreign affairs of Peru.

(Signed) Jovino Novoa, Jacinto Villegas, Charles W. Buck, José Manuel Braun, Piná, Emilio de Ojeda, C. Mansfield, E. de Gubernatis, Hermann A. Schumacher, Shu Cheon Pon, H. B. Cavalcanti de Lacerda.

True copy of the original act.

JOVINO NOVOA,  
*Minister Plenipotentiary of Chili.*  
MANUEL J. NOVOA,  
*Secretary of the Legation of Chili.*

[Inclosure 4 in No. 57.—Translation.]

*Note from the Italian minister to Peru to the diplomatic corps.*

LIMA, November 29.

MY DEAR COLLEAGUES: After considerable search we found Urrutia, who had been informed of our mission by Novoa, and was prepared with his answer. His answer was as follows: "The Government appreciate the generous sentiments which determined the action of the diplomatic body, and are extremely grateful for your good offices."

At one moment he appeared to say, "Are grateful for and accept;" but having desired him to repeat his sentence, he confined himself to expressing their gratitude. All attempts to extract another word proved fruitless, more especially as Mr. Villegas put a stop to this interview by remarking that our object reduced itself to receiving his answer and transmitting the same. Mr. Urrutia nevertheless closed by adding that in the event of a conflict taking place the responsibility rested with Cáceres, not with Iglesias. Upon this he asked me whether, in consequence of the declaration made by the diplomatic body, it remained his duty to answer yesterday's note. I replied that I was not intrusted with the mission of expressing the opinion of my colleagues on that score, but that I could give him my personal views. "In my opinion," I continued, "all depends on the reply which the Government may return to our offer of good offices. Should our good offices be accepted and enable us to avert the disasters we anticipate, then our note has no further reason to exist; but if, on the other hand, the Government, while expressing their acknowledgments, reject our offer, I should desire to learn at an early date the intentions of the Government, in order to take measures in consequence." Mr. Urrutia took note of my views, and reserved to himself to ask you for your opinion.

I am,

GUBERNATIS.

Mr. BUCK, Count PINÁ, and Colonel MANSFIELD.

[Inclosure 5 in No. 57.—Translation.]

## AGREEMENT.

LEGATION OF CHILI IN PERU,  
*Lima, December 2, 1885.*

The diplomatic corps being assembled in the building of Congress in the presence of General Cáceres with the object of seeking a means of solution of the existing internal contest, the minister of Chili, Mr. Novoa, for himself and his honorable colleagues,



set forth that the diplomatic corps, in their desire to contribute to the pacification of Peru, had tendered their good offices to General Iglesias, and that he, accepting them, had stated that he was animated by the same sentiments and was ready to enter into arrangements with General Cáceres on the basis of both resigning the power exercised by them, and determining by means of special commissioners a third authority (*confiada*), that should convoke an election of President, vice-president, senators, and deputies of the nation.

To this statement of Mr. Novoa, ratified by each and all of his honorable colleagues, General Cáceres answered, showing that the basis just now proposed by General Iglesias preserved perfect conformity with that which had before and on repeated occasions been presented by himself, in his desire to insure internal peace.

Mr. Novoa then stated that once in accord, as they were, *on the essence of the question*, it was in his opinion indispensable that General Iglesias be immediately informed of this result, in order that he might name special commissioners.

After this conclusion Mr. Ojeda pointed out the advisability of making record of the present conference in order to give relief and tranquillity to the alarmed inhabitants of the city.

Mr. Novoa added that General Iglesias had expressed his desire that after settlement had been made there should reign in all political parties complete oblivion of past differences, leaving neither conquerors nor conquered, but Peruvians bound by the indissoluble tie of love of country.

General Cáceres having manifested that he was moved by the same sentiments, the act was pronounced terminated.

(Signed) Cáceres, Jovino Novoa, Jacinto Villegas, Carlos W. Buck, José M. Piná, Braun, Hermann A. Schumaker, Emilio de Ojeda, E. de Gubernatis, C. E. Mansfield, A. B. Cavalcanti de Lacerda, Shu Cheon Pou, Pedro A. del Solar, A. Morales Toledo.

A correct copy of the original.

[L. S.]

[L. S.]

JOVINO NOVOA,  
*Minister Plenipotentiary of Chili.*  
MAN'L J. NOVOA,  
*Secretary of the Legation of Chili.*

[Inclosure 6 in No. 57.—Translation.]

#### AGREEMENT OF THE PEACE COMMISSIONERS.

LIMA, December 2, 1885.

Met together in the house of the Resident Minister of Spain, Messrs. Dr. José Eusebio Sanchez, Carlos M. Elias, José Gregorio Garcia, Monseñor Dr. Manuel Tovar, Dr. Manuel A. Barinaga, and Dr. José Nicolas Róbaza, being the commissioners named, respectively, by General Andres A. Cáceres and General Miguel Iglesias, with the object of arriving at an agreement to put an end to the actual state of affairs and to secure internal peace, they proceeded to exchange the corresponding full powers, which were found ample and in order.

Dr. Ermel J. Rospigliosi having been named secretary of the commissioners, Dr. Tovar proposed that the act drawn up at the meeting of the honorable diplomatic corps on this day should be read; and starting with the agreement arrived at and accepted in the said meeting, and agreed to by General Iglesias and by General Cáceres, and in view of the full powers given to the commissioners, the following was agreed to:

ARTICLE 1. To put in force at once the constitution of 1860.

ART. 2. That the resignation to which the said act refers, made by Generals Cáceres and Iglesias, will be made evident in an explicit manner by the respective decrees which will be issued to the effect.

ART. 3. That the authority which shall assume the government to which said act refers will be a council of ministers named by the commission, giving to each member a portfolio, and naming the one to which the presidency of the council corresponds.

ART. 4. The council of ministers will call popular elections for President of the Republic, vice-president, senators and deputies within the third day of their installation, which elections will be made according to the constitution of 1860.

ART. 5. Both the forces of General Cáceres, as well as those of General Iglesias, will remain under the command of their respective commanders-in-chief, who will hold them at the disposal of the council of ministers, they taking up their quarters in the following places: The forces of General Cáceres will encamp in the zone of the plantation of Santa Clara; those of General Iglesias in the zone of Chorillos; those that should arrive from the north of the Republic in Callao; and those under the command of Colonel Gregorio Relaeze in the zone which the new Government shall appoint.

The evacuation of this capital should commence to-morrow, Thursday, 3d instant, at 1 p. m., the city remaining in charge of the police forces, under the command of the actual prefect of the department.

ART. 6. The council of ministers having charge of the executive power remains formed as follows:

President of the council and minister of foreign affairs, Dr. Antonio Arenas; minister of government Police and public works, Dr. José Eusebio Sanchez; minister of justice, public instruction, and beneficence, Monseñor Dr. Manuel Tovar; minister of war and marine, Colonel Manuel Velarde; Minister of finance and commerce, M. Pedro Correa y Santiago, having agreed that the portfolios are obligatory.

Dr. Sanchez and Monseñor Dr. Tovar strongly opposed being named for government and justice, respectively, but they were overruled by the other members of the commission. It was lastly agreed to make three copies of the present memorandum of agreement, with the end that one should be given to General Cáceres, another to General Iglesias, and the third to the president of the council of ministers, and they signed José Eusebio Sanchez, Manuel Tovar, José Nicolas Rébaza, Carlos M. Elias, Manuel A. Barinaga, José Gregorio Garcia.

NOTE COMMUNICATING RESULT TO PRESIDENT OF COUNCIL AND MINISTERS.

Ermel J. Rospigliosi, secretary, having communicated the preceding agreement, the following note was sent:

LIMA, December 2, 1885.

*Mr. President of the Council of Ministers and Minister of Foreign Affairs,*

*Dr. Antonio Arenas:*

MR. PRESIDENT: The undersigned, named in commission by Generals Miguel Iglesias and Andres A. Cáceres, with the object of arriving at an arrangement which would put an end to the actual state of affairs and secure internal peace, have proceeded to elect a council of ministers to exercise the supreme command in the terms which appear in the act which we have the honor to forward to your honor, who has been named to preside over the same.

Which we have the honor to communicate to your honor for the after effects.

God guard your honor.

Signed: Manuel Tovar, José Eusebio Sanchez, José Nicholas Rebaza, Carlo M. Elias Manuel A. Barinaga, J. Gregorio Garcia.

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No. 369.

*Mr. Porter to Mr. Buck.*

No. 44.]

DEPARTMENT OF STATE,

Washington, December 30, 1885.

SIR: Your No. 57 of the 4th instant describing the late contest between the troops of General Cáceres and those stationed in and about Lima, has been read with much interest.

Your course in joining with your associates of the diplomatic body, in an endeavor to arrest fighting and bloodshed in Lima, appears to have been discreet. The correspondence which you transmit establishes the fact that the tender of good offices was made without suggestion of any determinate solution or purpose of intervening in the settlement of a matter pertaining wholly to the domestic competency of Peru, and that after the first effort to lead both parties towards an understanding had been fruitless and a desperate conflict in the streets of the capital had only ended by the executive of the recognized government calling a truce, the further efforts of your associates and yourself were confined to making known to General Cáceres the proposal of President Iglesias that their respective claims should be withdrawn and the people of Peru be left free to choose a national government. The fact that General Cáceres had repeatedly announced his readiness to abide by such an under-

standing made its acceptance probable, and the diplomatic body could have had no other participation in the result than the mere exercise of their impartial good offices.

\* \* \* \* \*

I am, &c.,

JAMES D. PORTER,  
*Acting Secretary.*

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*Mr. Buck to Mr. Bayard.*

No. 370.

No. 95.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, April 24, 1886. (Received May 21.)*

SIR: Under the election system in Peru officials are not chosen by direct vote, and the process of electing through the medium of electors who are selected by popular vote, extends from the President down to municipal officers.

First a sort of registration is made of voters, who, to exercise their franchise, must take out certificates. I have heretofore referred to the restriction placed upon suffrage under the constitution.

The popular voting under which electors are chosen extends through a week; for that time the tables, as they are called, are open for the reception of votes. The recent popular election extended from the 14th to the 21st of March, inclusive.

Afterwards the electors of the various districts convene to indicate their choice of national and local officers. This month conventions of electors, or meetings of electoral colleges, took place on the 14th and 15th instant, and resulted in the choice of General Andres A. Cáceres without opposition for President, and of Colonel Remigio Morales Bermúdez for First Vice-President, and of Señor Aurelio Denegré for Second Vice-President.

The senators chosen for Lima were General Casar Canevaro, Dr. Manuel Odriozola, and Don Manuel Candamo.

The senators from the next most important department, that of Arequipa, are Dr. Francisco Garcia Calderon, Don Luis Llosa, and Don Juan Manuel Diez Conoseco. \* \* \*

I have, &c.,

CHARLES W. BUCK.

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No. 371.

*Mr. Buck to Mr. Bayard.*

No. 116.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, June 8, 1886. (Received July 3.)*

SIR: After closing the mail last Saturday in which was forwarded my No. 114 of the 4th instant, I received the note of which I inclose a copy and translation, officially announcing the organization of the new Government.

I inclose a copy of my reply delivered at the foreign office yesterday.  
Your obedient servant,

CHARLES W. BUCK.



[Inclosure 1 in No. 116.—Translation.]

*Mr. Rivas to Mr. Buck.*

LIMA, June 4, 1886.

MR. MINISTER: Elected by the unanimous vote of the nation and proclaimed by the Congress, the Citizen General Andres Avelino Cáceres, constitutional President of the Republic. He assumed yesterday the exercise of his functions, and has thought fit to organize his Government as follows: President of the council of ministers and minister of Government, police, and public works, Dr. Pedro Alejandrino del Solar; minister of justice, instruction, religion, and beneficence, Dr. Juan Francisco Pazos; minister of war and marine, Col. Justiniano Borgoño; minister of finance and commerce, Mr. Luis N. Bryce; and of foreign affairs, the undersigned.

In communicating to your excellency these events it is a pleasure for me to manifest that the new National Government will inspire its relations with foreign countries in the good faith and cordiality which the traditional practices of the Republic prescribe, avoiding with a high spirit all that may occasion difficulties contrary to the realization of its intention of inaugurating a period of reform, peace, and work.

Your excellency will please transmit this declaration to your Government, and accept, &c.

M. M. RIVAS.

[Inclosure 2 in No. 116.]

*Mr. Buck to Mr. Révas.*

LEGATION OF THE UNITED STATES,

Lima, June 5, 1886.

SIR: I have the honor to acknowledge receipt of your excellency's note of yesterday informing me of the succession of General Cáceres to executive power, and the formation of his Cabinet with your excellency in charge of the department of foreign relations.

It will afford me pleasure to transmit a copy of the same to my Government.

It is grateful for me to refer to the friendly action already taken by the President of the United States, as indicated in my note No. 23, of the 27th ultimo, and before announced in my No. 20, of April 28.

It is only necessary to note the frank and cordial words reported as used by President Cleveland in his remarks to the esteemed late minister of Peru at Washington, to make manifest the sympathetic disposition of my country.

I trust the auspicious inauguration of the new administration, under the sanction of the popular will, as expressed in the late elections, is truly the dawn of a happy future for a sister Republic, to which my own country is related by traditions of sincere good will and friendship.

Permit me to tender, &c.

CHAS. W. BUCK.

## PORTUGAL.

CORRESPONDENCE WITH THE LEGATION OF PORTUGAL  
AT WASHINGTON.

No. 372.

*Viscount das Nogueiras to Mr. Bayard.*

WASHINGTON, February 6, 1886.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Portugal, has received instructions from his Government to address the following communication to his excellency the Secretary of State.

By the treaty concluded in the month of August, 1885, by Dr. Bernardino Meyrelles Leitê, acting in the name and as the representative of

the governor of St. Thomé, and by Prince Couhondou, heir apparent to the throne of Dahomey, acting in the name and by the special authorization of the King of Dahomey, it was stipulated that Portugal should exercise a protectorate over the entire sea-coast of that Kingdom.

That instrument, whereby the benefit of Portuguese jurisdiction is granted to Europeans residing in those regions, has been approved and confirmed by a royal decree, dated December 29, 1885.

As the Government of His Majesty has, in the compacts concluded in its name, and officially confirmed by it, no object save that of extending the area of African civilization in the interest of all enlightened nations, it has pledged itself to respect the legitimate and pre-existent rights of foreign powers to the territories over which, according to the terms of the convention, the Portuguese protectorate should extend.

Taking these principles as its point of departure, His Majesty's Government does not consider the port of Cotonnu, which is situated at the eastern extremity of the coast of Dahomey, as being actually included in the protectorate of Portugal. In view of the rights claimed by France, which are based upon conventions concluded prior to the Portuguese treaty, and like that approved by the chief ruler of the state, it has been decided to leave that port in the situation that it has hitherto occupied, so that the question of dominion over that portion of territory may be definitively determined by the Government of the French Republic and the King of Dahomey.

The undersigned avails himself, &c.,

VISCOUNT DAS NOGUEIRAS.

No. 373.

*Mr. Bayard to Viscount das Nogueiras.*

DEPARTMENT OF STATE,  
Washington, March 3, 1886.

VISCOUNT: I had the honor to receive in due course your note of the 6th ultimo, whereby you are pleased to inform me that, in virtue of a treaty engagement between a representative of the governor of the Portuguese possession of São Thomé and the Kingdom of Dahomey, Portugal has undertaken to exercise a protectorate over the entire sea-coast of Dahomey and to administer Portuguese jurisdiction over Europeans residing in those regions.

In the absence of information as to how this change may affect the interests of any citizens of the United States domiciled or doing legitimate business in that part of Dahomey thus taken under the direct protection of Portugal, I am unable to do more than make a simple acknowledgment of the receipt of your note. I observe, indeed, that your note announces that your Government has pledged itself to respect the legitimate and pre-existent rights of foreign powers to the territories embraced in this protectorate, and that, in consequence, jurisdictional rights as to the port of Cotonnu are left in abeyance pending the settlement of the claim of France thereto. The United States have no jurisdictional claims of sovereignty in that region which it might invite Portugal to respect, but it is to be assumed that the rights of any American citizens in the protected district will be respected as though they pertained to the Government of the United States. If citizens

of the United States, equally with the citizens or subjects of other powers, establish themselves in uncivilized regions and acquire vested interests there in the same way as foreigners of other nationalities through good relationship with the natives, it is not to be supposed that, in the event of any one power (among the several represented by settlers there) assuming control of the country, our citizens will be discriminated against, in residence or trade, as compared with the subjects of the protecting power.

This point is therefore necessarily reserved.

Accept, &c.,

T. F. BAYARD.

## RUSSIA.

No. 374.

*Mr. Lothrop to Mr. Bayard.*

No. 77.]

LEGATION OF THE UNITED STATES,

*St. Petersburg, September 7, 1886.* (Received September 20.)

SIR: As the question has recently come up again, I think it my duty to advise the State Department of the present *status* of the right of citizens of the United States being of the Hebrew faith to enter into or dwell in Russia.

The laws of Russia forbid this. It is true there are some exceptions in favor of members of great banking or commercial houses, but this is of no practical value to Americans.

This matter has heretofore been the subject of careful and extended correspondence between the State Department and this legation, especially in 1880 and 1881. A digest of the Russian law may be found in Mr. Foster's dispatch of July 14, 1881.

Every effort seems to have been made to induce the Imperial authorities to modify its laws in favor of our citizens, but wholly without success. There is now no probability of any such modification. Indeed, there seems now to be a revival of strictness in enforcing the restrictions. Strict orders have been issued to Russian officials abroad not to *visa* the passports of any persons recognized as foreign Jews. The object is to turn all such persons back at the frontier, and thus prevent their entering the Empire. If, however, any get through, their passports are subjected to renewed scrutiny in all large cities, and if they are recognized they are forthwith ordered to leave. The papers announce that only a few days ago two English Jews, one of them a member of Parliament, were peremptorily expelled at Moscow.

On August 29 a most respectable Hebrew merchant of New York, a native-born citizen of the United States, who was traveling in Russia as a tourist with his family, was waited on at his hotel in this city by the police, his passport returned to him, and he was ordered to leave the city that night. He came to me immediately, and I at once not only went to the foreign office, but filed a protest in writing against this order, and asked its revocation. At the same time I advised him to remain pending my application. My explanation of this gentleman's character and the purpose of his visit was very readily accepted and the order of expulsion revoked.



\* \* \* The Imperial Government defends its position on the ground that every country must have full liberty to determine who shall have the right to enter and dwell in its territory. \* \* \* It is not pretended that American citizens of the Hebrew faith have ever at any time proved dangerous to the peace or safety of the Empire. But it is urged that discrimination between nationalities is inadmissible, and that the harshness of the general rule is mitigated by special permission given in all proper cases upon special application.

I believe that the Russian officials are disposed to be obliging in this respect, but it can never be acceptable that any body of American citizens should be subject to any such necessity. It seems to be an imputation on that which is justly held most sacred.

Still, as there is not the slightest inclination to abrogate, or even modify the law, it may be desirable that the facts should be more fully known in America.

Much annoyance and mortification would be saved if our Hebrew fellow-citizens desiring to come to Russia should apply for special leave. Letters of introduction to the legation would be most useful in promoting such application. Permission could doubtless be obtained in all ordinary cases.

This question has arisen in several other cases; but in no other case of an American citizen has an actual order of expulsion been made.

I submit the matter to you for such consideration and direction as you shall think best.

I am, very truly, &c.,

GEORGE V. N. LOTHROP.

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No. 375.

*Mr. Bayard to Mr. Lothrop.*

No. 59.]

DEPARTMENT OF STATE,  
Washington, September 23, 1886.

SIR: In your No. 77 you inform the Department of the present status of the Russian law respecting the right of an alien of the Hebrew faith to enter or reside within His Imperial Majesty's territory.

You state that, save in exceptional cases, it is altogether denied, and that though efforts have been made on various occasions by the legation to induce the Russian Government to modify the law, there now exists no probability of such modification, although special exception has been made at your request.

The treatment of alien Jews prescribed by the Russian law is such as we, whose system of Government rests on toleration and freedom of conscience, cannot comprehend without difficulty or view without regret. Aimed, as it would appear, principally at Russian-Polish Jews by origin, and rigidly applied as to them even when they are lawful citizens of another state, the fact that the enforcement of the law in the case of worthy foreign Jews of other origin appears to be within the discretion of the police authorities, and that the representations of the legation are generally heeded when an American Jew is in question, fortunately makes occasion for protest rare.

The instance cited by you is in point where a native-born Hebrew merchant of New York was promptly relieved from the harsh order of expulsion.

Any case arising should be carefully examined on its merits, and where the person interested is not by origin a Russian Jew, returning to his native country under circumstances suggesting danger to the state and implying the exercise of the ultimate right of self-preservation, the earnest efforts of the legation will doubtless be exerted to secure relief in whatever way the Russian administrative system may indicate as practical. \* \* \*

The Government of the Czar is fully aware that we do not admit the principle of discriminating against any American citizens because of their religious tenets.

I am, &c.

T. F. BAYARD.

## CORRESPONDENCE WITH THE LEGATION OF RUSSIA AT WASHINGTON.

No. 376.

*Baron Rosen to Mr. Bayard.*

IMPERIAL RUSSIAN LEGATION,  
*Washington, July 10—20, 1886. (Received July 23.)*

SIR: I am instructed by my Government to inform you that His Majesty the Emperor has been pleased to consent to the next meeting of the International Prison Congress being held at St. Petersburg in the year 1890, according to the unanimous desire expressed by the last congress assembled at Rome in 1885.

I am further instructed to transmit to the Government of the United States an invitation of the Imperial Government to participate in the coming Fourth International Prison Congress, to assemble at St. Petersburg in the year 1890, by appointing a delegate or delegates to attend the same.

The Imperial Government also desires me to bring to your notice the fact that the year (1890) in which the next prison congress is to be held coincides with the centenary of the death in Kherson (Southern Russia), in 1790, of the famous philanthropist, John Howard, whose writings and personal efforts gave the first impetus to prison reform in Europe.

A committee of organization having been appointed and intrusted with all the necessary work preparatory to the assembling of the congress, the Imperial Government invites all participating Governments to give notice, at the earliest possible opportunity, either through their diplomatic representatives or through their delegates to the Permanent International Prison Commission, of any suggestions they may have to make with a view to the furtherance of the objects of the congress and of such proposals as they may wish to submit to its consideration, in order that their wishes might be duly consulted in preparing the programme of the coming Fourth International Prison Congress.

Accpet, &c.

ROSEN.

No. 377.

*Mr. Bayard to Baron Rosen.*DEPARTMENT OF STATE,  
Washington, August 6, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo, conveying to the Government of the United States the invitation of the Imperial Government to participate in the coming Fourth International Prison Congress, to assemble at St. Petersburg in the year 1890, by appointing thereto one or more delegates.

This kind invitation of your Government is appreciated, and I shall call the attention of Congress to the subject at an early practicable date.

Accept, &amp;c.,

T. F. BAYARD.

## SPAIN.

No. 378.

*Mr. Curry to Mr. Bayard.*

No. 26.]

LEGATION OF THE UNITED STATES,  
Madrid, February 4, 1886. (Received February 23.)

SIR: I have the honor to inclose the original and translation of the papal decision of the question between Germany and Spain in regard to the sovereignty of the Caroline Islands.

I have, &amp;c.,

J. L. M. CURRY.

[Inclosure in No. 26.—Translation.]

*Proposition made by His Holiness Pope Leo XIII, as mediator in the question of the Caroline and Pelew Islands pending between Germany and Spain.*

The discovery made by Spain in the sixteenth century of the Caroline and Pelew Islands, which form part of the archipelago, and a series of acts accomplished at different periods by the Spanish Government in those same islands for the good of the natives, have, in the conviction of that Government and of that nation, created a title to the sovereignty founded on the maxims of international law invoked and followed at that period in the case of analogous disputes. In fact, when one examines the history of the above-mentioned acts, the authority of which is confirmed by divers documents in the archives of the Propaganda, one cannot fail to recognize the beneficial work of Spain towards those islanders. It is also to be remarked that no other Government has ever exercised a similar action over them. This explains the constant tradition, which must be taken into account, and the conviction of the Spanish people relative to that sovereignty—tradition and conviction which two months ago were manifested with such an ardor and animosity, capable for a moment of compromising the internal peace and relations of two friendly Governments.

On the other hand, Germany and England in 1875 expressly informed the Spanish Government that they would not recognize the sovereignty of Spain over the said islands. On the contrary, the Imperial Government thought it is the effective occupation of a territory which creates the sovereignty, occupation which was never carried into effect on the part of Spain in the Caroline Islands. It was in conformity with this principle that it acted in the Island of Yap, and in that, as on its part the Spanish Government has also done, the mediator is pleased to recognize the complete loyalty of the Imperial Government.



Consequently, and in order that this divergence of views between the two Governments be not an obstacle to an honorable arrangement, the mediator, after having well considered the whole question, proposes that in the new convention to be stipulated they shall observe the forms of the protocol relative to the Sooloo Archipelago signed at Madrid on the 7th of March last between the representatives of Great Britain, Germany, and Spain, and that the following points be adopted:

1. To confirm the sovereignty of Spain over the Caroline and Pelew Islands.
2. The Spanish Government to render her sovereignty effective engages to establish as quickly as possible in that archipelago a regular administration with sufficient force to guarantee order and the rights acquired.
3. Spain offers to Germany full and entire liberty of commerce and navigation, and of fishing at the same islands, as also the right of establishing a naval station and a coal depot.
4. The liberty of making plantations in those islands, and of founding agricultural establishments on the same footing as Spanish subjects, to be also guaranteed to Germany.

L. CARD. JACOBINI.

ROME, FROM THE VATICAN, *October 22, 1885.*

### PROTOCOL.

The undersigned, his excellency the Marquis de Molins, Ambassador of His Catholic Majesty near the Holy See and his excellency M. de Schloezer, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Prussia near the Holy See, being duly authorized to conclude the negotiations which the Governments of Spain and Germany, under the accepted mediation of His Holiness the Pope, have pursued in Madrid and Berlin relatively to the rights which each of said Governments may have acquired to the possession of the Caroline and Pelew Islands, considering the propositions made by His Holiness as a basis for a mutual understanding, have agreed upon the following articles in accordance with the propositions of the august mediator.

#### ARTICLE I.

The German Government recognizes the priority of the Spanish occupation of the Caroline and Pelew Islands and the sovereignty of His Catholic Majesty as specified, and the limits of which are indicated in article 2.

#### ARTICLE 2.

These limits are formed by the equator and by the eleventh degree of north latitude and the one hundred and thirty-third and the one hundred and sixty-fourth degrees east longitude (Greenwich).

#### ARTICLE 3.

The Spanish Government, to guarantee to German subjects full and entire liberty of commerce, navigation, and fishing in the Caroline and Pelew Archipelagoes, undertakes to carry out in the said archipelagoes stipulations analogous to those contained in Articles I, II, and III, of the protocol regarding the Sooloo Archipelago, signed at Madrid on the 11th of March, 1875, and reproduced in the protocol of the 7th of March, 1885, as follows:

I.—“The commerce and traffic of German ships and subjects with the Caroline and Pelew Archipelagoes and in all parts thereof, as also the rights of fishing, shall, without prejudice to the rights of Spain, as recognized by the present protocol, be absolutely free in conformity with the following declarations:

II.—“The Spanish authorities cannot in the future require that the ships and subjects of Germany, which repair freely to the Caroline and Pelew Archipelagoes or from one point to another of them without distinction, or from thence to any other part of the world, shall touch, either before or afterwards, at any determined points in these archipelagoes or elsewhere, or that they shall pay dues of any kind, or be required to obtain permission from the authorities, who on their part shall abstain from any intervention, or in placing any impediment in the way of the said traffic. It is at the same time understood that the Spanish authorities shall in no way, nor under any pretext, impede the free importation and exportation of whatever kind of merchandise without exception, except at the points occupied in conformity with Declaration III; and likewise that at all the points not effectively occupied by Spain neither the ships nor the subjects aforesaid, nor their merchandise, shall be subjected to any imports or duties or payments of any kind, nor to any sanitary regulations or other.

III.—“At all points occupied by Spain in the Caroline and Pelew Archipelagoes the Spanish Government can establish duties and sanitary and other regulations during the effective occupation of the points indicated.”

But on her side Spain undertakes to maintain the establishments and officials necessary for the requirements of commerce and the observance of the said regulations. It is nevertheless expressly understood, and the Spanish Government, being resolved not to improve restrictive regulations at the points occupied, voluntarily undertakes not to introduce at those points imposts or duties of a higher rate than those fixed by the Spanish tariffs or by the treaties or conventions between Spain and all other powers. Neither will she put in force exceptional regulations applicable to German commerce and subjects, who shall in all respects enjoy the same treatment as Spanish do.

In order to anticipate any claims or complaints which may result through commercial uncertainty with respect to the points occupied and subjected to the regulations and tariffs, the Spanish Government will in each case of the effective occupation of a point in the Caroline and Pelew Archipelagoes make communication thereof to the German Government and at the same time inform commerce by means of a public notification in the official journals of Madrid and Manila. As regards the tariffs and regulations to be applied at the points which are or shall be occupied by Spain, it is stipulated that they shall not be enforced or levied until after a delay of eight months from the date of the publication in the official journal of Madrid.

It is understood that no German ship or subject shall be obliged to touch at one of the points occupied either on going to or returning from a point not occupied by Spain, and that no penalty can be inflicted on German subjects for this reason, nor for any kind of merchandise destined for a point not occupied in the Caroline and Pelew Archipelagoes.

#### ARTICLE 4.

German subjects shall have full liberty to purchase and make plantations in the Caroline and Pelew Archipelagoes, to found agricultural establishments, to exercise all kinds of commerce, and to make contracts with the inhabitants and utilize the land (*d'exploiter le sol*) under the same conditions as Spanish subjects. All their acquired rights shall be safeguarded. German companies which enjoy recognized rights in their own country, and especially anonymous companies (*compagnies anonymes*), shall be treated on the same footing as the aforesaid subjects.

German subjects shall enjoy for the protection of their persons and their goods the acquisition and transmission of their properties, and for the exercise of their professions, the same treatment and the same rights as Spanish subjects.

#### ARTICLE 5.

The German Government shall have the right of establishing in one of the Caroline or Pelew Islands a naval station and a coal depot for the Imperial navy. The two Governments will determine by common consent the place and conditions of that establishment.

#### ARTICLE 6.

If the Governments of Spain and Germany have not refused their adhesion to this present protocol within a period of eight days from this date, or if by the intermission of their respective representatives they notify their adhesion within that period, the present declarations shall immediately enter into force.

MARQUIS DE MOLINS.  
SCHLÖZER.

Done at Rome the 17th December, 1885.

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No. 379.

*Mr. Bayard to Mr. Curry.*

No. 39.]

DEPARTMENT OF STATE,  
Washington, February 23, 1886.

SIR: I transmit herewith, for your information and such use with the Spanish Government as you may think prudent, the petition and protest of maritime associations, ship owners, shipping merchants, and

exporters of New York and Portland, Me., respecting the manner in which the commercial agreement of February 13, 1884, is being observed by the Spanish authorities.

It will be seen from these papers and from the correspondence between this Department and your legation since that agreement went into operation, that the method of its enforcement by the Spanish authorities has been a source of repeated complaint on the part of the shipping and export interests of the United States, and has proved far from satisfactory to this Government. The entire history of the commercial and diplomatic relations which led to the agreement shows that the main object of that compact was to abolish the discriminating flag duties which the two Governments had established in the trade between the United States and the Spanish Antilles, and this is plainly stipulated in Articles 1 and 2.

The suppression of differential flag duties provided for in article 1 necessarily meant that in the trade from the United States to Cuba and Porto Rico the American flag, and the cargo under it should be treated in those islands precisely upon the same terms as the Spanish flag. If this had not been the case this Government would have possessed no power to enforce Article 2. It is to be noted that the agreement is a simple executive act on the part of the United States.

The authority to enter into and execute it was derived solely from section 4228 of the Revised Statutes of the United States. By this section Congress conferred upon the President the power to suspend the 10 per cent. discriminating duties imposed upon the products and vessels of certain foreign countries, including the Spanish Antilles, upon the express condition that satisfactory proof should be given that no discriminating duties were imposed upon the vessels of the United States and their cargoes.

The notice which the Spanish Government gave, after signing the agreement, that it would put it into execution on the 1st of March following its date, was accepted by this Government as sufficient proof under the act of Congress cited, and the President's proclamation was accordingly issued suspending the 10 per cent. discriminating duties imposed on Spanish vessels bringing cargoes from Cuba and Porto Rico.

But it appears from the protests herewith inclosed and from the information heretofore sent to this Department by the consul-general at Havana, that Spanish vessels are permitted to carry foreign goods transhipped in American ports to Cuba and Porto Rico and have them admitted under the third column of the tariffs of those islands, while similar goods carried in American vessels are required to pay the higher duties of the fourth column. This is a manifest discrimination against the American flag, the imposition of a differential duty, and hence a violation of Article 1 of the agreement. Under section 4228 the President is only authorized to continue the suspension of the 10 per cent. discriminating duty so long as the reciprocal exemption of vessels of the United States and their cargoes shall be continued "and no longer."

By reference to Mr. Foster's No. 241 of August 8, 1884, it will be seen that this phase of the question was brought to the attention of the Spanish Government, accompanied by the declaration that if this Government had understood that the agreement would be so observed by Spain it never would have been signed or put into execution, and that if the interpretation of Article 1, as enforced in Cuba, was to be maintained, it would become the duty of the President to annul the agreement. It further appears from Mr. Foster's 397 of August 25, 1885, and his 403 of August 29, 1885, that the Spanish minister of state acquiesced in the



view taken by this Government, and stated that he had recommended to the minister of ultramar that a royal order be issued placing American vessels in the Antilles upon the same footing as Spanish vessels in respect to foreign goods carried by them; and that Mr. Foster brought this fact to the attention of the minister of ultramar, who promised to give the subject his early attention.

In view of these facts it is desired that you will ask for the matter the careful and serious attention of the Spanish Government, in the confident expectation that early measures will be devised in consonance with the reasonable views of this Government.

It would be a source of the deepest regret if the President should be forced by the unwarranted interpretation placed upon the agreement of 1884 to withdraw the suspension of the 10 per cent. discriminating duty. This can be avoided by the action indicated by Señor Elduayen, in placing American vessels in Cuba upon the same footing as Spanish vessels; and the liberal and friendly spirit manifested by the present ministry at Madrid justifies the belief that you will be able to bring it about at an early day.

The Spanish consular tonnage-tax, to which the second part of the petitions and protests refer, has been the subject of recent instructions to you, and I am gratified to know is receiving your careful attention.

The tax is such a manifest infringement on the rights of national sovereignty and on our Federal Constitution, that I hope for its early abolition through your present efforts.

I am, sir, &c.,

T. F. BAYARD

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[Inclosure in No. 39.]

*James E. Ward & Co., F. Alexandre & Sons, and others to Mr. Bayard.*

NEW YORK, *February 10, 1886.*

SIR: The undersigned owners of American-built steamers and sailing vessels and shipping merchants, engaged in the trade between the United States and the Spanish West Indies, desire to present to you this our respectful protest and petition.

We earnestly protest against the discrimination which is being maintained in Cuba and Porto Rico against American vessels and in favor of Spanish vessels.

The commercial agreement of February 13, 1884, stipulates for the suppression of the differential flag duty in these islands, but that stipulation has not been enforced, as American vessels are not placed upon an equality with Spanish vessels in the transportation of foreign products from the ports of the United States to the parts of Cuba and Porto Rico, but are charged an import duty thereon so much higher that they are excluded from that important traffic, which, as a consequence, is being monopolized by Spanish vessels.

We insist that under the laws of the United States the President has no power to remove or suspend the discriminating duties fixed by statute on Spanish vessels and their cargoes so long as any discrimination exists against American vessels in the Spanish West Indies (R. S., 1878, sec. 4228).

We therefore petition you to take such prompt and efficient measures as will require the impartial observance of the stipulations of said commercial agreement and secure to American shipping the protection guaranteed by the laws of Congress.

Second. We further protest against the continued collection by Spanish consuls in the ports of the United States of a tonnage-tax on all cargoes shipped to Cuba and Porto Rico. This is a further discrimination against American commerce, as no similar duty or tax is collected by American officials in Spanish ports. Its suppression was provided for by the agreement of 1884, but no repeal has yet been made.

We denounce it as an export-tax levied and collected in our ports by a foreign Government, a tax prohibited to our own Government by the Federal Constitution and one against which we have, steadily and for years, filed in the Spanish consulate our protests and which we now pray may, in the interest of American commerce and for the self-respect of our nation, be summarily prohibited.

Appealing to you, Mr. Secretary, as the special authority to whom is intrusted the protection of the foreign commerce of our country, we respectfully petition that the stipulation of the convention and laws cited may be enforced without further delay or evasion, and that American commerce may be thereby relieved from the unjust discrimination and burdens to which it is now subjected.

JAMES E. WARD & CO.,  
*Agents New York and Cuba Mail Steamship Company.*  
 F. ALEXANDRE & SONS,  
*New York, Havana, and Mexican Steamship lines and others.*  
 J. S. WINSLOW & CO.,  
*Ship-owners, Portland, Me.*  
 WALTER KIMBALL & CO.,  
*Merchants, Portland, Me.*  
 GEO. S. HUNT & CO.,  
*Ship-owners and Merchants, Portland, Me.*  
 JNO. P. TOWNSEND,  
*President of the Marine Association, New York, N. Y.*

Attest:

W. HOUGHTON,  
*Secretary, New York, N. Y.*

No. 380.

*Mr. Bayard to Mr. Curry.*

No. 40.]

DEPARTMENT OF STATE,  
*Washington, February 24, 1886.*

SIR: In continuation of the representations which this Government has to make on the practices of the Cuban customs authorities, adverse to the established agreement between the two Governments, I inclose a report of the consul general at Havana.

This report shows, first, that Spanish vessels arriving at Cuban ports from Spain, not exceeding twenty days out, and sailing from Cuba with cargo to the ports of the United States are exempt in clearing from all tonnage duties in Cuban ports, while American steamers sailing from Cuba with cargo to the ports of the United States are required to pay, on clearing from Cuban ports, 62½ cents per ton on their cargoes if mail steamers, or \$1.35 if not such, and, second, that Spanish sailing vessels arriving from Spain at Cuban ports and clearing from Cuba with cargo to the ports of the United States, pay in Cuban ports 25 cents per ton on their cargoes destined for the United States, while American sailing vessels clearing from Cuba with cargo to the ports of the United States pay in Cuban ports \$1.35 per ton on their cargoes. Thus it is manifest that in the language of section 4231, Revised Statutes, "discriminating or countervailing duties on tonnage are levied upon vessels of the United States," in Cuban ports.

The fact that exemption of Spanish steamers and the lower duties fixed for Spanish sailing vessels are made dependent upon certain conditions as to the domestic trade between the Spanish Peninsula and the Spanish Antilles does not affect the question as contemplated by the act of Congress cited.

It is understood that the Spanish Government has not, up to the present time, admitted the Antillean possessions to the benefits of the coast-wise trade; but even if that should be done, it could not alter the situation as to the trade between the Antilles and the United States.

The object of Congress was to secure for American vessels engaged in the trade between this country and the Spanish possessions the same treatment in Spanish ports as was accorded in those ports to Spanish

vessels engaged in the same trade. Section 4228, Revised Statutes, says that—

Upon satisfactory proof being given to the President by the Government of any foreign nation that no discriminating duties of tonnage or imposts are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, &c.

It will be seen from the correspondence had with the Spanish legation in this city in 1877 (F. R., 1878, pp. 804-8), that Sr. Mantilla appealed to the provisions of this law in order to secure the exemption of Spanish vessels from the discriminating tonnage duties levied on Spanish vessels in the United States, and declared that Spain "has not levied on American tonnage any greater or other charges than she levied on Spanish tonnage," and he supported this declaration by a certificate from the auditor of customs at Havana. Upon this declaration being confirmed by the ministry at Madrid, the Secretary of the Treasury directed the suspension of the discriminating tonnage tax of which complaint had been made. The late tonnage regulations at Havana, based upon the Spanish law of July 20, 1882, referred to by Consul-General Williams, are in plain opposition to the declaration of Sr. Mantilla and the Madrid ministry, and they constitute such a discrimination against American vessels as calls for the enforcement of the corresponding measures indicated by Congress, unless at once revoked.

I am, sir, &c.,

T. F. BAYARD.

[Inclosure in No. 40.]

*Mr. Williams to Mr. Porter.*

No. 340.]

UNITED STATES CONSULATE-GENERAL,  
Havana, January 28, 1886. (Received February 4.)

SIR: In compliance with your instruction No. 124, dated the 4th of November last, encharging me to investigate carefully the discrimination in tonnage dues practiced against American vessels in the ports of Cuba, as alleged by Messrs. James E. Ward & Co., of New York, in their letter addressed to the Department under date of 21st October last, I have now the honor to present you the following report, together with its accompanying correspondence, and upon which it is mainly based.

As the Department will perceive, both the report and correspondence will show that the allegation of Messrs James E. Ward & Co. is, because of the existence of the facts they mention, correctly founded.

The inclosed copies of this correspondence are numbered respectively from 1 to 13.

Inclosure No. 1 is a copy of my letter of December 9 last, addressed to Messrs. Hidalgo & Co., agents in this city for both the Alexandre and Ward lines of American steamers, the first plying between New York and Vera Cruz, and touching each way at this port for passengers and freight, and the second running exclusively between New York and Cuban ports.

Inclosure No. 2 is copy of their answer thereto, dated the 11th of December.

Inclosure No. 3 is a copy of the letter addressed by me to Messrs. Lawton Brothers, agents of the Morgan line of American steamers, plying between New Orleans, via the West Florida ports, and Havana; and who are, as well, agents of the steamers of the Plant Steamship Line, running between Tampa Bay and Havana via Key West.

Inclosure No. 4 is copy of their answer thereto, dated 10th December.

Inclosure No. 5 is copy of my letter, dated December 12, 1885, addressed to Mr. George Marsden, an American ship-broker, who has been for many years established in this port, having, therefore, a wide experience in the matter under investigation.

Inclosure No. 6 is copy of his answer, under date of December 17.

Inclosure No. 7 is copy of the letter dated the 19th of December last, which I directed to Mr. Louis Placé, a ship-broker of this city, intimately acquainted with the facts mentioned in the letter of Messrs. James E. Ward & Co., as will be seen in his answer thereto, marked No. 8.



Also, and as confirmatory of the allegation presented by Messrs. James E. Ward & Co., will be found, under inclosure No. 10, the copy of the letter dated the 12th instant, received from Don Joaquin Fernandez, the collector of customs of the port of Havana, in answer to my letter of inquiry addressed to him the day previous, copy of which is accompanied herewith as inclosure No. 9.

You will be pleased to observe that, according to this letter of the collector, the several discriminations herein set forth are practiced pursuant to the law of commercial relations, dated at San Ildefonso the 20th of July, 1882, to be found on page 113 of the accompanying printed copy of the Cuban customs tariff.

#### *First discrimination.*

It will be seen from the accompanying letters of Mr. George Marsden and Mr. Louis Placé that Spanish steamers arriving from Spain in periodical trips of less than twenty days, and almost any steamer nowadays can do it within the limit, and leave again loaded with cargo for the United States, pay neither inward nor outward tonnage.

But, in contrast to this, all regular trading American steamers running between the United States and the island pay 62½ cents per ton on both inward and outward cargo.

To illustrate the effects of this law against American steamers I will cite, singly, the following actual occurrence as a sample of its workings:

The Spanish steamer *Herman Cortes*, which arrived here in the early part of last August in less than twenty days from Barcelona, Spain, as will be seen by this correspondence, brought of inward cargo equal in tons to 1,460, and after discharging loaded up with an outward cargo of sugar for New York, equal in tons to 2,100, making, jointly, of inward and outward cargo a bulk equal in tons to 3,560, but upon which the *Herman Cortes paid no tonnage dues whatever*.

Now, in opposition to this, under the same customs law, had a regular trading American steamer brought to and carried away from Cuba the same amount of cargo, then her tonnage dues at the rate of 62½ cents per ton would have amounted in Spanish gold to \$2,225.

The extent of favor enjoyed in this case by Spanish steamers over their American rivals trading between the United States and Cuba is so great that it is evident, under the operation of the handicapping discrimination, it will be quite impossible for American steamers to compete with Spanish steamers in carrying sugars to the United States from this island the day the supply of the latter's tonnage becomes sufficient to meet the freight demand of this market, and as Spanish steamers are all built in the ship-yards of Great Britain there is no doubt, to this end, as to the profitability of the source from which they are to draw.

#### *Second discrimination.*

In comparing the tonnage dues paid here by Spanish and American sailing vessels bringing inward and loading outward cargoes the following contrast offers itself: An American sailing vessel arriving here from the United States or any other part of the world with inward cargo, and clearing with outward cargo, pays \$1.35 Spanish gold per ton of net register. But, as the opposite of this, a Spanish vessel coming from Spain with inward cargo pays 37½ cents per ton, and on her departure for the United States with outward cargo pays 25 cents per ton of net register. Now, assuming in this case a sailing vessel of the medium size of 500 tons net register as a standard of calculation and comparison, we arrive at the following results:

|                                                                                                                                      |              |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Tonnage dues on an American sailing vessel of 500 tons, net register, inward and outward, at \$1.35 per ton.....                     | \$675 00     |
| Tonnage dues on a Spanish sailing vessel of 500 tons, net register, at 37½ cents inward, \$187.50, and 25 cents outward, \$125 ..... | 312 50       |
|                                                                                                                                      | <hr/> 362 50 |

This difference, as the Department will observe, in view of the low rates of ocean freights that have ruled for years past, is quite an advantage in favor of the Spanish vessel over the American vessel, the amount, indeed, being more than sufficient to pay all the ordinary stevedores' bills of the Spanish vessel.

#### *Third discrimination.*

In this case, the contrast or difference lies between Spanish and American vessels arriving in ballast and departing with outward cargo for the United States. Accordingly, American sailing vessels which arrive here in ballast and leave with *outward*

cargo for a home port pay \$1 per ton net register for tonnage dues, while the Spanish vessel arriving from Spain and loading for the United States in same manner only pays 25 cents per ton of net register. Assuming, again, for the purpose of illustration, a sailing vessel of 500 tons net register as standard, we will reach the following result, viz:

|                                                                                                             |       |
|-------------------------------------------------------------------------------------------------------------|-------|
| 500 tons net American register, at \$1 per ton on outward cargo.....                                        | \$500 |
| 500 tons net Spanish register, at 25 cents per ton outward .....                                            | 125   |
|                                                                                                             | 375   |
| Difference in favor of the Spanish vessel over the American vessel carrying cargo to the United States..... | 375   |

*Fourth discrimination.*

In regard to the other discriminations to which Messrs. James E. Ward & Co. call the attention of the Department—such as the charging of higher import duties on products taken out of bond in the United States, not the growth or production of the United States, when loaded there by American vessels, over what is paid upon the same goods when loaded in ports of the United States and brought here by Spanish vessels, namely: Coffee in bond, Newfoundland codfish, East India rice, South American jerked beef, or Chinese groceries—I beg respectfully to annex, in answer, and to incorporate as a part of this report, copies of my official communication of November 17, 1884, and January 9, 1885, addressed to the governor-general of the island, as also copy of his excellency's reply through the political secretary, Mr. Cassá, dated the 12th of January, 1885, and of which the Department was duly informed, in reference to the 286 bags of La Guayra coffee, shipped in New York on board the American steamer Saratoga, and upon which, regardless of the convention of February 13, 1884, between the United States and Spain, import duties were collected on this coffee under the fourth column of the customs tariff of Cuba, instead of under the third column, as the convention provides.

The excess of duties collected in this case over what the same coffee would have paid if it had been brought from New York in a Spanish vessel, was, as I then stated, \$67.56 Spanish bank bills, and \$608.11 Spanish gold.

I understand that this discrimination still exists, and as a matter of course, as long as it lasts, American ships, in this respect, cannot compete either, even in our own ports, with Spanish shipping.

I have, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

[Inclosure 1 in No. 340.]

*Mr. Williams to Messrs. Hidalgo & Co.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
*Havana, December 9, 1885.*

DEAR SIR: For the information of this office, I have to ask of you the kindness to tell me what are the rates of tonnage dues paid by you in this port on the Alexandre and Ward lines of steamers, for which you are the agents—namely:

First. When they come and return with cargoes which, jointly, exceed in tons their register tonnage; and

Second. When they come and return with cargoes which, jointly, are less than their register tonnage.

I have, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

[Inclosure 2 in No. 340.]

*Hidalgo & Co. to Mr. Williams.*

HAVANA, December 11, 1885.

DEAR SIR: In answer to your letter of the 9th instant we beg first to refer you as regards the payment of tonnage dues on steamers of the Alexandre and Ward lines, to paragraphs 112 and 113 of the latest edition of the customs tariff, where you will find a

copy of a royal decree dated Madrid, 25th August, 1867, which deals with the matter. Secondly we have to answer your questions as follows:

To the first. We pay duties according to net registered tonnage, less 6 tons.

To the second. Sixty-two and one-half cents per 1,000 kilograms of cargo imported and exported.

We have, &c.,

HIDALGO & CO.

[Inclosure 3 in No. 340.]

*Mr. Williams to Messrs. Lawton Brothers.*

UNITED STATES CONSULATE-GENERAL,  
*Havana, December 9, 1885.*

DEAR SIR: For the information of this office, I have to ask of you the kindness to tell me what are the rates of tonnage dues paid by you in this port on the steamers for which you are the agents, namely:

First. When they come and return with cargoes which, jointly, exceed in tons their registered tonnage; and

Second. When they come and return with cargoes which, jointly, are less than their register tonnage.

I have, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

[Inclosure 4 in No. 340.]

*Lawton Brothers to Mr. Williams.*

HAVANA, CUBA, *December 10, 1885.*

DEAR SIR: In reply to your valued favor of yesterday's date, we beg to inform you that the rate of tonnage dues paid in this port on the steamers for which we are the agents, is:

First. When they come and return with cargoes which, jointly, exceed in tons their register tonnage, 62½ cents per ton; and

Second. When they come and return with cargoes which, jointly, are less than their register tonnage, 62½ cents per ton, provided they carry, jointly, over 6 tons.

The tonnage dues are, in all cases, paid in Spanish gold.

We have, &c.,

LAWTON BROTHERS.

[Inclosure 5 in No. 340.]

*Mr. Williams to Mr. Marsden.*

UNITED STATES CONSULATE-GENERAL,  
*Havana, December 12, 1885.*

DEAR SIR: For the information of this office, I have to ask of you the kindness to tell me what are the rates of tonnage dues paid by vessels in this port, particularly steamers, namely:

First. When they come and return with cargoes which, jointly, exceed in tons their register tonnage; and

Second. When they come and return with cargoes which, jointly, are less than their register tonnage.

I have, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*



[Inclosure 6 in No. 340.]

*Mr. Marsden to Mr. Williams.*

HAVANA, December 17, 1885.

DEAR SIR: In reply to your request, that I should make a statement of the tonnage dues which steamers and vessels have to pay in Cuba, I submit the following list of rates, and how charged:

## American steamers:

|                                                                                                        |         |
|--------------------------------------------------------------------------------------------------------|---------|
| Making periodical voyages, on cargo—                                                                   |         |
| Inward, per 2,000 pounds per ton .....                                                                 | \$0 62½ |
| Outward, per 2,000 pounds per ton .....                                                                | 62½     |
| If cargo in and out exceed the net register tonnage, they pay per net register tons, less 6 tons ..... | 1 35    |

## American steamers:

|                                                        |                |
|--------------------------------------------------------|----------------|
| Not making periodical voyages, with cargo—             |                |
| Inward, clearing in ballast, on net register ton ..... | 1 30           |
| Outward cargo additional, per ton .....                | 05             |
| American sailing vessels the same per ton .....        | \$1 30 or 1 35 |

## Spanish steamers:

|                                                                                                      |         |
|------------------------------------------------------------------------------------------------------|---------|
| Making periodical voyages, passing in less than twenty days from Spain or Spanish port, inward ..... | Free.   |
| Loading outward for any port, including ports of the United States .....                             | Free.   |
| From foreign port, via Spanish ports—                                                                |         |
| Cargo from Spanish port .....                                                                        | Free.   |
| Tonnage dues on cargo from foreign port .....                                                        | \$0 62½ |
| Outward for Spanish port .....                                                                       | 25      |
| Outward for foreign port .....                                                                       | 62½     |

You will notice that it appears Spanish steamers coming from Spain have an advantage over American steamers when they can take cargo from this island for the United States and be exempt of tonnage dues, while American steamers belonging to lines that run regularly, leaving here two or three steamers weekly, are subject to the payment of 62½ cents per ton on their outward cargo from Cuba.

Very respectfully,

GEORGE MARSDEN.

[Inclosure 7 in No. 340.]

*Mr. Williams to Mr. Placé.*UNITED STATES CONSULATE-GENERAL,  
Havana, December 19, 1885.

DEAR SIR: For the information of this office I have to ask of you the kindness to tell me what are the rates of tonnage dues paid by vessels in this port, particularly steamers, namely:

First. When they come and return with cargoes which jointly exceed in tons their register tonnage, and

Second. When they come and return with cargoes which, jointly, are less than their register tonnage.

In addition, please state if Spanish steamers arriving here from Spain in less than twenty days, and leaving with outward cargo for the United States, pay or do not pay tonnage dues in this port.

I have, &amp;c.,

RAMON O. WILLIAMS,  
Consul-General.

[Inclosure 8 in No. 340.]

*Mr. Placé to Mr. Williams.*

HAVANA, December 22, 1885.

SIR: In compliance with the desire you expressed in your favor of the 19th instant, I have the honor to inform you—

First. A foreign or Spanish mail steamer arriving with foreign goods only and clearing for any part of the world pays tonnage at the rate of 62½ cents for every ton

imported and exported, if these do not exceed her net register tonnage, and if they should exceed her net register tonnage, pays according to the net register at the same rate of 62½ cents per ton, deducting 6 tons.

*Example.*—The steamer Newport, from New York to Havana and back to New York, which arrived at this port on the 4th of November ultimo, paid her tonnage dues as follows: 718 tons inward and 899 tons outward; in all, 1,617 tons, at 62½ cents each. Her register tonnage being 1,806 tons.

The steamer Niagara, from New York to Havana and back to New York, which arrived at this port the 12th of November ultimo, settled her tonnage dues as follows: 949 tons inward and 1,024 tons outward; in all, 1,973 tons, and as her net register tonnage is 1,661.60, paid tonnage on the net register at the same rate of 62½ cents per ton.

Second. Spanish steamers arriving with Spanish and foreign goods and clearing with cargo, pay tonnage dues as follows: On the goods from and for foreign countries 62½ cents per ton, imported and exported, provided same do not exceed her register tonnage. And the cargo from Spain to the Spanish Antilles is free of tonnage dues, provided the steamer has performed her voyage in less than twenty days from Spain; if the voyage exceeds twenty days the steamer has to pay the following tonnage dues: 37½ cents per ton of cargo landed, and 25 cents per ton of cargo loaded.

*Example.*—The Spanish steamer Cadiz, from Liverpool and Santander, which arrived in this port on the 17th of October ultimo, discharged 127 tons of cargo from Liverpool (balance of her cargo was for other Cuban ports), for which she paid 62½ cents each, and 290 tons from Santander, and as the voyage from Santander was accomplished in less than twenty days, the above 290 tons were free from tonnage dues.

Third. Spanish steamers from Spain arriving with cargo and clearing with cargo to a port or ports in the United States, provided the voyage from Spain is made in less than twenty days, are free from tonnage dues on the inward and outward cargo.

*Example.*—The Spanish steamer Hernan Cortes, from Barcelona, arrived at this port the 16th of August ultimo; discharged 1,464 tons of cargo and loaded 2,176 tons of sugar for New York; both inward and outward cargo was free of tonnage dues.

Fourth. An American sailing vessel from any part of the world with general cargo and clearing with cargo to the United States pays \$1.35 per ton net register, while a Spanish sailing vessel from Spain with cargo and loading full or part cargo, to the United States only pays 37½ cents per ton of inward cargo and 25 cents per ton on the outward cargo.

*Example.*—The American schooner John R. Bergen, from New York, with general cargo, which arrived at this port the 3d of November ultimo, and loaded at Havana for Philadelphia, paid \$1.35 per ton on her register of 615.28 tons.

The Spanish brig Elisa, from Spain, arrived on the 27th of August ultimo, discharged 451 tons of cargo, paying 37½ cents per ton, took here 474 tons of sugar to New York, and only paid 25 cents per ton outward.

You will please notice the disadvantage of the American marine in these waters. While an American steamer has to pay 62½ cents per ton, the Spanish steamer from Spain bound to the United States does not pay *one single cent* of tonnage dues, and while an American sailing vessel has to pay \$1.35 per ton with full or part cargo only the Spanish sailing vessel from Spain, loading for the United States only, has to pay 25 cents per ton.

Foreign steamers that are not mail boats, arriving and clearing with cargo other than coal, pay for every ton, net measurement, \$1.35 per ton; arriving with cargo other than coal and clearing in ballast, \$1.30 per ton; arriving in ballast and clearing with cargo, \$1 per ton. Foreign steamers and sailing vessels bringing coals only, but in less quantity than their register tonnage, pay nothing per every ton occupied by coals, and for every ton not so occupied, 62½ cents per ton.

Please excuse my calling your attention to the fact that the difference between the measurement of the tonnage of American and Spanish steamers help the Spanish steamers considerably.

While the steamship Newport, measuring 1,806 tons net, carries about 2,000 hogsheads of sugar, the Spanish steamer Leonora, measuring 1,853 tons, cleared from Cardenas the 2d day of May ultimo, with 3,440 hogsheads and 2,000 bags, and the Spanish steamer Guido, measuring 2,065 tons, cleared from Sagua on the 5th day of May ultimo, with 3,736 hogsheads of sugar.

The *Boletín Comercial* of the 29th August last says:

"The immense number of the Spanish steamers (over forty steamers now running); their capacity, as most of them carry twice the cargo of an American steamer; the circumstance of paying the tonnage dues in the United States only once a year, they get full cargoes in Cuba to the United States and leaving from the United States to their European port also with full cargoes,—allows them to accept freight in Cuba at rates much more equitable than formerly paid."

This immense quantity of British steamers running under Spanish flag (to save the difference of duties) between Liverpool, Havana and other Cuban ports; the immense quantity of cargo that comes to this island from Liverpool, owing to the ad-

vantages that the Liverpool steamers enjoy, by bringing cargoes not only from Liverpool but from "all parts of the world," France, Germany, Belgium, Austria, Italy, Holland, Sweden, Norway, that goes to Liverpool in transit for Cuba to meet the British steamer that under Spanish flag gives to all the goods from Europe the advantage of the "third column." Advantages that the American steamers from New York ought to have if the agreement signed by the Government of the United States on the 14th of February, 1884, in which stipulating "American produce under American flag," are the only articles that can be entered at our custom-house under the third column, and therefore driving away from New York considerable cargo that in transit from many ports in Europe could have been imported via New York.

Furthermore, this agreement, which prohibited American vessels from bringing cargo in transit via New York, allows the same to be done by Spanish vessels, owing to our custom-house regulations. Foreign goods under Spanish flag "third column" therefore Spanish vessels from New York can bring American goods and also foreign goods, all under the "third column."

This advantage, given to the Spanish flag to the prejudice of the American flag by the American Government, is something incomprehensible.

Why are not American vessels allowed to carry cargo in transit "via New York" from France, Belgium, Holland, Germany, Sweden, and Norway, when our custom-house is not prejudiced thereby? Assaid goods as above stated are forwarded to Liverpool to meet British steamers that under the Spanish flag bring them from Liverpool to this island, and this advantage is considerable in many respects, and one of them is that the Spanish steamers from Liverpool bring generally a full cargo to Cuban ports and their net register is fully covered by the inward cargo, this allows them to accept cargoes from Cuba to the United States to greater advantage than American steamers.

And referring to the agreement signed at Washington the 14th of February, 1884, please take due notice of the following observations published in the *Boletín Comercial* of the 5th of September ultimo, under the heading of "*La línea de Circumnavegación*:"

"Regarding the first article, published on the 28th of August, we said that in the agreement of navigation with which we have been occupying ourselves, the Americans renounced their monopoly, not having on the other hand any compensation whatever, as we proved in another article.

"Articles 2, 3, and 5 having been withdrawn from the agreement concluded at Madrid on the 2d of January, 1884, between Mr. Ruiz Gomez y Albacete for Spain, and Mr. Foster for the United States, Mr. Canovas del Castillo suggested that the particulars referred to were exclusively attributes of the Cortes, and that the Government was not authorized to make any agreement leaving only to the benefit of the United States the only advantage of their goods being entered at the custom-house under the 'third column,' which is the same that 'all the goods that are imported under the Spanish flag pay from all the parts of the world.'

"Placed on same footing as European goods, what advantage did the Americans dream of obtaining over this resigning for this equality of duties the only monopoly of navigation trade that they really possessed?"

The Articles 2, 3, and 5 of the primitive agreement suppressed refer to:

- (1) The free importation of live fish from Key West.
- (2) The suppression of consular fees on manifest of cargoes.
- (3) The suppression of tonnage dues.

"Leaving to Americans the advantage of *only small* reduction of duties on their goods, which reduction has in fact only benefited Spain.

"Since this reduction has in no way increased the importation of the American goods, on the contrary it has diminished, especially as regards corn, potatoes, bay, corn-starch, and many other goods. According to this it is evidently proved that all the advantages of the 'agreement' are for the exclusive benefit of Spain obtained from the Americans by the ability, intelligence, and wonderful sagacity of the eminent political economists and statesmen, Messrs. Canovas del Castillo and Ruiz Gomez de Albacete, an 'agreement' which we must be permitted to style as a master work of diplomacy (*obra maestra en diplomacia*)."

Your obedient servant,

LOUIS PLACÉ.

[Inclosure 9 in No. 340.]

Mr. Williams to the collector of customs of the port of Havana.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
Havana, January 11, 1886.

MY DEAR SIR: To the end that I may be enabled to comply with an instruction received from my Government, I beg that you will please inform me if the Spanish steamers coming from Spain to the Island of Cuba in less than twenty days are ex-



empt from the payment of outward and inward tonnage dues to the custom-houses of this island on exporting cargo either for Spain or for the United States. Should this be true, I beg that you will be pleased to inform me if the concession is granted under the authorization contained in article 11 of appendix 16, printed on page 111 of the official pamphlet entitled "Tariff of Customs of the Island of Cuba," which reads as follows: "Spanish mail steamers will pay in accordance with the special contracts they may have with the Government," or whether such concession is founded on some other authorization.

Also, with regard to Spanish sailing vessels coming from Spain, I have likewise to inquire of you whether the tonnage dues which they pay in the custom-houses of the island are, respectively, at the rates of  $37\frac{1}{2}$  cents inward and 25 cents outward, when exporting cargo either for Spain or for the United States, beseeching you at the same time to indicate to me the law upon which these rates are based.

I am, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

[Inclosure 10 in No. 340.—Unofficial.]

*Mr. Fernandez to Mr. Williams.*

HAVANA, January 12, 1886.

SIR: In reply to your attentive letter of the 11th instant, I have to inform you that it is true that Spanish steamers arriving from Spain to this island making periodic trips of less than twenty days are exempt from the payment of tonnage dues, both inward and outward, it mattering not for what port they may afterwards leave. This concession is effected under the authorization granted by the law of commercial relations of July, 1882, inserted in the New Tariff, published by this office on the 24th of June of last year, and, in consequence has nothing to do with the eleventh article cited by you.

With respect to sailing vessels and steamers not performing periodic trips from ports of Spain, they pay tonnage dues at the rate of  $37\frac{1}{2}$  cents per ton of 1,000 kilograms, discharged in ports of the island, and 25 cents for the cargo taken on board, without regard to the port of destination; this grant being also included in the law of commercial relations.

I am, &c.,

JOAQUIN FERNANDEZ.

[Inclosure 11 in No. 340.]

*Mr. Williams to Mr. Cassá.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
*Havana, November 17, 1884.*

EXCELLENCY: I have the honor to present for your excellency's consideration and decision the following case, which has been reported to this consulate-general by Mr. Manuel Lopez, now here, and partner of the firm of Messrs. Calixto Lopez & Co., of New York City, the facts of which are as follows, viz:

Those gentlemen, under the impression that the commercial agreement entered into between the United States and Spain, at Madrid, on the 13th of February last past, had for its object the abolition of the differential duties on the part of Spain and the countervailing or retaliatory duties on the part of the United States hitherto mutually imposed on the trade between the United States, Cuba, and Porto Rico, and conversely between those islands and the United States, did, on the 16th of last month, ship in New York, on board the American steamship *Saratoga*, bound for Havana, 286 bags of coffee, the product of the Republic of Venezuela, which had been carried from the port of La Guayra, in Venezuela, to the port of New York, in the United States.

But, regardless of the conditions of said agreement of the 13th of February, and on the landing of this coffee in the port of Havana, the customs authorities here have pretended to collect the import duties thereon according to the fourth column, instead of according to the third column, of the tariff ruling in the island.

In consequence, an excess of import duties has been assessed on said coffee of \$67.56 Spanish bank bills, and \$608.11 Spanish gold, over and above what it would have had to pay had it been brought from New York to Havana in a Spanish vessel.

I am therefore compelled to remonstrate before your excellency against the action of the customs authorities in the case, as being contrary to the intent and meaning of the said agreement of the 13th of February last, promulgated in the Official Gazette of this city, in its issue of the 23d of April of the present year, and according to which, as your excellency will observe on reference thereto, it is explicitly stated that the object of the agreement was the mutual concession of tariff advantages between the islands of Cuba and Porto Rico and the United States.

The same decree, article 1, also declares that, "in virtue of the authority granted to the Spanish Government by Article 3 of the law of the 20th July, 1882, that the duties of the third column of the Cuban and Porto tariffs shall be applied, which implies the suppression of the differential or flag duties to the products and *merchandise proceeding* from the United States."

The fact of this collection of an excess of import duties in the case cited constitutes, beyond all doubt, the imposition of a discriminating duty against the American flag in Cuban ports, which was suppressed by the agreement of 13th of February, 1884.

It is also in contravention to the law of the Congress of the United States, by which the President was authorized to accept the agreement of February 13, 1884, for it is opposed to the perfect reciprocity upon which said Congressional authority is based.

Again, had this coffee been brought first from La Guayra to Havana, and from thence shipped in a Spanish bottom to the United States, no more duties would have been collected there than had it been shipped in an American bottom; that is, the shipping of both nations would have been placed on a perfect equality in the ports of the United States.

Neither is it reasonable to suppose that the Government of the United States would ever have entered into an arrangement by which the vessels of foreign nations should be favored in the loading of cargo in American ports over American vessels, yet such is what is implied by the interpretation of the agreement of the 13th February ultimo by the Havana customs authorities.

Therefore, relying upon your excellency's clear judgment and good desires for the promotion of commercial relations between the United States and Cuba, I have to ask that it be ordered through your excellency's superior authority, in view of the foregoing, that no more duties be collected on the said 286 bags of coffee of Messrs. Calixto Lopez & Co., of New York, than if they had been brought to Havana in a Spanish vessel.

Trusting in an early reply from your excellency for transmission to the honorable the Secretary of State at Washington,

I remain, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

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[Inclosure 12 in No. 340.]

*Mr. Williams to Mr. Cassá.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,  
*Havana, January 9, 1885.*

EXCELLENCY: On the 17th of November last I had the honor to address your excellency an official communication upon the subject of a discriminating import duty collected by the customs authorities of this city upon 286 bags of La Guayra coffee, transshipped in the port of New York on board the American steamer Saratoga for this port, to which communication I have not as yet received an answer.

In consequence, and in obedience to special instructions, dated Washington the 30th ultimo, from the honorable the Secretary of State of the United States, I have now most respectfully to ask your excellency to be pleased to inform this office at your earliest convenience of the decision that the island government may have reached upon the subject, to the end that I may accordingly communicate the same to the honorable the Secretary of State, adding, by instruction, that the Government of the United States certainly expects that an engagement like that of February, 1884, which proposes to abolish all differential duties, should be interpreted so as not to discriminate against any cargo carried in an American vessel.

I have, &c.,

RAMON O. WILLIAMS,  
*Consul-General.*

[Inclosure 13 in No. 340.—Translation.]

*Mr. Cassá to Mr. Williams.*

[General government of the Island of Cuba, secretary's office, political bureau, general business.]

HAVANA, *January 12, 1885.*

SIR: In answer to your communication of the 17th of November last and 9th instant, referring to the collection of customs duties on 286 bags of coffee, the product of the Republic of Venezuela, proceeding (procedentes) from the United States in the American steamer *Saratoga*, his excellency the governor-general, after a hearing with the department of the treasury, has been pleased to decide that you be informed, as I now have the honor to manifest, that the 286 bags of coffee have been appraised under the fourth column of the tariff, in accordance with the decision given by this general government on the 30th of May last, which ordered that the benefit of the third column could only be enjoyed by the products of the United States imported under the American flag, a circumstance foreseen in the treaty between the United States and Spain, the said benefit corresponding only to the products of that nation proceeding from the same, but not to the products of other countries, though they come from ports of the United States.

God guard you many years.

FRANCO. CASSÁ.

No. 381.

*Mr. Bayard to Mr. Curry.*

No. 56.]

DEPARTMENT OF STATE,  
*Washington, May 4, 1886.*

SIR: My instruction No. 39, of 23d February last, brought to your attention the subject of the discriminating duties which continue to oppress the trade of the United States with Cuba and Porto Rico, notwithstanding the stipulations of the commercial agreement of January 2–February 13, 1884. In the brief interval since my No. 39 was sent no reply has been received from you, but it is assumed that the matter is receiving your attention, and that your report in the case will soon be made.

In the mean time the repeated representations which are made to this Department touching the anomalous discriminations that burden our intercourse with the Spanish Antilles constrain me to recur to the subject and urge your best efforts to bring about an understanding in the true interest of both countries.

The existing differential duty, which practically prohibits a vessel of the United States from carrying to Cuba productions of another country, even when shipped from the United States, is described as ruinous to the owners of American ships. Messrs. James E. Ward & Co., who own the only wholly American line trading with Cuba, have lately been obliged to sell one of their steamers because they could not carry goods in competition with Spanish bottoms.

Another line, sailing from New York under a foreign flag, has been obliged, for the purpose of this particular trade, to purchase and run a steamer under the Spanish flag. This latter fact is significant because showing that the discrimination may be evaded by a subterfuge in favor of foreign ship-owners from which American owners are prohibited.

Probably no question between the United States and Spain has been more involved and misunderstood than the relative discriminations which have existed and still exist in one shape or another.



At the time Mr. Foster concluded the agreement of January 2-February 13, 1884, a complex system of retaliatory duties, which had long existed between the United States and Spain, had recently been abruptly altered by the revocation of the royal decree of 1867. A practical balance of disfavor had grown up, and under its operation a successful American carrying trade had been established with the Spanish Antilles. Singularly enough the abrogation of the decree of 1867, while removing part of the discrimination against the products of the United States, made this restoration of favor dependent upon carriage in Spanish bottoms, and in effect threatened to extinguish the trade that had been slowly and laboriously created. It was doubtless intended to have such an effect, for the revocation coincided with propositions for some reciprocal commercial interchanges which should enlarge Cuban exports. And out of these propositions (as to which negotiation is still pending) sprang the agreement of 1884 as a *modus vivendi*, to prevent abruptions of trade relations pending an arrangement covering the whole field.

It was the intent of the negotiators that this arrangement should reciprocally terminate all discriminations affecting trade between the United States and the Spanish Antilles. Article I explicitly declares that the arrangement made "implies [on the part of Spain] the suppression of the differential flag duty," and Article II stipulates, on the part of the United States, the removal of the only discrimination here imposed, to wit, the 10 per centum ad valorem additional duty. The one was designed to compensate for the other, and, by our laws, the suspension of the additional 10 per centum duty is conditional upon the total removal by the other party of all discrimination "upon the produce, manufactures, or merchandise imported in vessels of the United States from the United States or from any foreign country." (Rev. Stat., sec. 4228.)

Now, if in fact Spain has not removed all discriminating duties of impost upon merchandise, of whatever origin, imported into Cuba and Porto Rico in vessels of the United States, the President's proclamation suspending the additional 10 per cent. customs duty has been erroneously issued, being without the consideration commanded by the statute.

In fact Spain has not "suppressed \* \* \* the differential flag duty." Merchandise of foreign origin, whether shipped from the United States or from a third country, and merchandise the production of the United States when shipped from a third country in vessels of the United States must pay on entering Cuba and Porto Rico the higher duties of the fourth column, while if carried in a Spanish vessel they pay the lower duties of the third column. To understand this clearly it is necessary to glance at the respective discriminations which existed from 1867 until the decree of that year was repealed in 1883, and to note the effect of such repeal, and it will then be seen what discriminations the agreement of January 2-February 13, 1884, purported to remove but has not removed.

Prior to 1867 Spain maintained a discrimination against the United States with respect to the flag. Goods carried from any foreign country in Spanish vessels paid lower custom duties, according to the third column of the tariff, than when carried under the flag of the United States (fourth column).

Under the statutes of 1828, 1830, and 1832 (now section 4228, Revised Statutes), the United States, in view of the differential flag duty imposed by Spain levied 10 per centum additional duty on all goods, wares,

and merchandise (of whatever origin) imported in vessels of Spain. It is to be noted that this discrimination fell only upon Spanish vessels, and not upon Spanish products as such, for they could come under the flag of the United States or under any foreign flag entitled to treaty equality without paying additional duty.

The royal decree of March 12, 1867, as a professedly retaliatory measure imposed on all merchandise (without regard to origin), when shipped from ports of the United States to Cuba in *Spanish vessels*, the highest duties of the fourth column.

This converted the partial discrimination against the flag of the United States into a total discrimination against all *merchandise* shipped from the United States. Spain had thus virtually two discriminations to our one.

The practical effects of this were:

(a) In Cuba, to prevent all traffic in foreign goods transshipped in ports of the United States, and to confine the direct traffic to such productions of the United States as could find a market notwithstanding the favored competition of other foreign shipments under the Spanish flag.

(b) In the United States, to exclude *Spanish vessels* from the carrying trade, no matter whence they came, although Spanish productions were unaffected if brought under the flag of the United States, or of any power whose flag was entitled to equality with ours in our ports.

There was, however, nominally, no discriminating flag duty in Cuba against the vessels of the United States as compared with those of Spain when those vessels carried products of the United States to Cuba.

The revocation in 1884 of the royal decree of March 12, 1867, would have operated to restore the old flag discrimination against all vessels of the United States in Cuba, no matter what cargo they carried, while abandoning the general discrimination against the productions of the United States when coming from the United States under any flag.

It is now asserted that the agreement of January 2-February 13, 1884, only operated to prevent a part of this flag discrimination from taking effect. By expressly favoring the productions of the United States when carried directly from the United States, the flag discrimination *as to that national trade* was removed from all vessels of any nationality whatsoever.

The fact that it left an important discrimination, to obstruct and well-nigh ruin the very trade we supposed that it would assist to build up, was not at first understood. The President's proclamation of February 14, 1884, issued immediately on receipt by telegraph of the amended text of the agreement signed the preceding day, was based on the belief that the agreement operated as a complete "suppression of the differential flag-duty" on the part of Spain, and responded by a complete and positive suspension of all such duty on the part of the United States.

It may be alleged that the President's proclamation, by adopting the phraseology of the agreement as to the precise concession granted by Spain, and reciting the concession on the part of the United States as being an equivalent, therefor accepts the unequal privilege which results and precludes appeal to the unrecited general declaration of the agreement touching the suppression of the flag-duty. To this it should be replied that neither the intent of the statute, nor the purpose of the United States in negotiating the agreement, permit the surrender of the whole for a part. The case comes under the general rule of interpretation that the extent of the grant shown to have been necessarily and evidently in the mind of the grantee and known to the grantor,

is the measure of the intent of the grantor. As Chancellor Kent has well said, "the true principle of sound ethics is to give the contract the sense in which the party making the promise believes the other party to have accepted it." If the grantor reserves less, without making his reservation distinctly known, there is a failure to agree.

This precludes any argument as to the significance of the words of Spanish concession, as they appear in Article I of the agreement and in the President's proclamation. The "products of and articles proceeding from the United States" to which the duties of the third column are applied irrespective of the carrying flag, are the same as "*los productos y procedencias de los Estados Unidos de America*" of the Spanish text. The record of the negotiation shows that the English phraseology was based upon and designed to be equivalent to the Spanish text; and the Spanish phrase is understood to mean "the products of the United States when proceeding from the United States."

The case rests on broader grounds. If, in the negotiation, Spain meant that this stipulation should in its application be so limited as to leave an important flag discrimination unremoved, and did not make that reserved meaning clearly known, and if the United States relied upon the explicit declaration that the differential flag-duty, which had been in dispute between the two Governments for many years, was absolutely and wholly suppressed, and believed that it was attaining that result in the agreement, and consequently gave full equivalence for that measure of privilege, there was in fact no agreement.

It remains for the Government of Her Majesty the Queen Regent to decide whether the supposed agreement was not an agreement at all, or by so applying it as to suppress entirely the differential flag-duty, to give the agreement full force and effect according to its intent:

I cannot believe that there is room for hesitancy as to which course will be followed by the Government of Her Majesty.

The disposition of the United States to deal most liberally with Spain in all that concerns her Antillean trade is shown by the provisions of the shipping act of June 26, 1884, which freely gives, without conditional equivalent, to all vessels coming from Cuba and Porto Rico to the United States, an important reduction of tonnage duties, and exhibits our desire to promote good neighborhood.

This instruction supplements my No. 39 of February 23. Taken with the correspondence on file in your legation relative to the subject, your course in dealing with it is made easy. In this connection I refer you to Mr. Frelinghuysen's instruction to Mr. Foster, No. 164, of April 18, 1884, with its accompanying memorandum, without, however, instructing you to regard the alternative suggestions of modes of settlement contained therein as prescribed for your guidance or to be proposed by you in those terms. Your own discretion will dictate what details of arrangement, whether suggested by the Spanish Government or appearing to you to be feasible, are to be recommended to this Government for adoption. I would prefer to leave the choice of a remedy to Her Majesty's Government, in the confidence that it is its desire and purpose fully to execute the provisional agreement of 1884, according to its clear intent.

I need not suggest the embarrassing effect which the recall of the President's proclamation of February 14, 1884, might have on pending negotiations for more liberal intercourse between the two countries.

I am, &c.,

T. F. BAYARD.



No. 382.

*Mr. Curry to Mr. Bayard.*

No. 58.]

LEGATION OF THE UNITED STATES,  
*Madrid, May 21, 1886. (Received June 5.)*

SIR: Referring to instructions Nos. 39 of February 23, 40 of February 24, 45 of March 8, and 56 of May 4, 1886, I have the honor to state that I have had frequent and earnest personal interviews with the minister of state, in which I have brought to his attention the complaints of my Government as to the manner of observance of the commercial agreement of February 13, 1884, and the different treatment of cargoes of foreign products carried by our vessels to Cuba and Porto Rico from that accorded to those carried by Spanish vessels. In order to give a more permanent and satisfactory understanding of the contention of the United States I added to the oral discussion a memorandum, a copy of which I inclose. This I submitted on the 10th of April last, and invited for it a careful examination and study. On the 26th of the same month I addressed to the minister a short note, a copy of which is inclosed, calling attention to the memorandum and urging that early action be taken in regard to the matters referred to therein. \* \* \*

I have, &amp;c.,

J. L. M. CURRY.

[Inclosure 1 in No. 58.]

## MEMORANDUM FOR SEÑOR MORET.

I. Maritime associations, ship owners, shipping merchants, and exporters in the United States continue to present to my Government petitions and protests respecting the manner in which the commercial agreement of February 13, 1884, is being observed by the Spanish authorities. The method of the enforcement of this agreement by the Spanish authorities, as the Spanish Government is fully advised, has been a source of repeated and earnest complaint on the part of the shipping and exports interests of the United States, and is far from being satisfactory to my Government.

II. A reference to the commercial and diplomatic relations which preceded and led to the agreement shows that the main object of that compact was to abolish the discriminating flag-duties which the two Governments had established in the trade between the United States and the Spanish Antilles, and this is plainly stipulated in Articles 1 and 2.

III. The suppression of the differential flag-duties provided for in Article I necessarily meant that in the trade from the United States to Cuba and Porto Rico the American flag and the cargo covered by it should be treated in those islands precisely upon the same terms as the Spanish flag. If this had not been the case, my Government would have had no power to enforce Article II. Your excellency will see that the agreement is a simple executive act on the part of the United States. The authority to enter into and execute it was derived solely from section 4228 of the Revised Statutes. By this section Congress empowered the President to suspend the discriminating duties imposed upon the products and vessels of certain foreign countries, including the Spanish Antilles.

The express condition on which the authority to suspend was granted was that satisfactory proof should be given that no discriminating duties were imposed upon the vessels of the United States and their cargoes.

*The notice given by the Spanish Government, after signing the agreement, that it would put it into execution on the 1st of March following, was accepted by my Government as a sufficient proof under the act of Congress I have cited, and the President's proclamation was accordingly issued, suspending the 10 per cent. discriminating duties imposed on Spanish vessels, carrying into our ports cargoes from Cuba and Porto Rico. It appears, however, that Spanish vessels are permitted to carry foreign goods transhipped in American ports to Cuba and Porto Rico, and have them admitted under the third column of the tariffs of those islands, while similar goods, carried in American vessels, are required to pay the higher duties of the fourth column. This, as it must be apparent to your excellency, is a manifest discrimination against the American flag, the imposition of a different duty, and consequently a violation of Article I of the agreement.*

The President of the United States is authorized to continue the suspension of the discriminating duty so long as the reciprocal exemption of vessels of the United States and their cargoes shall continue, "and no longer."

IV. My predecessor, Mr. Foster, very earnestly, nearly two years ago, called the attention of the Spanish Government to the matter, and declared, as he was perfectly competent to do, that if his Government had understood that the agreement would be so construed and observed by Spain, it never would have been signed or put in execution. It appears from Mr. Foster's communication that *the then Spanish minister of state acquiesced in the view taken by the Government of the United States, and stated that he had recommended to the minister of ultramar that a royal order be issued placing American vessels in the Antilles upon the same footing as Spanish vessels in respect to foreign goods carried by them.*

I am instructed by my Government to ask the prompt, careful, and serious attention of the Spanish Government to this continuing grievance in the confident hope that *early* measures will be devised in consonance with the stipulations of a formal agreement and the reasonable views of the United States. It would be a source of deepest regret if the President, most anxious to avoid any possible irritation with a Government between which and the United States most amicable relations exist, should be forced by the unwarranted interpretation, placed upon the agreement of 1884, to withdraw the suspension of the 10 per cent. discriminating duty. This can be avoided by the action indicated by Señor Elduayen, in placing American vessels upon the same footing as Spanish vessels. The liberal and friendly spirit manifested by the present ministry justifies my Government in the belief that the action it seeks can be brought about *at an early day*, and encourages me to expect from your Excellency such immediate measures as will effectuate the spirit and letter of the agreement of February 13, 1884.

In continuation of the representation which my Government has heretofore made, and regrets to be under the necessity of repeating, on the practice of Cuban authorities, adverse to the established agreement between Spain and the United States, I may state that Spanish vessels, arriving at Cuban ports from Spain, not exceeding twenty days out and sailing from Cuba with cargo to the ports of the United States, are exempt in clearing from all tonnage duties in Cuban ports, while American steamers, sailing from Cuba with cargo to the ports of the United States, are required to pay, on clearing from Cuban ports, 62½ cents per ton on their cargoes, if mail steamers, or \$1.35 if not such. Spanish sailing vessels arriving from Spain at Cuban ports and clearing from Cuba, with cargo, to the ports of the United States, pay in Cuban ports 25 cents per ton on their cargoes destined for the United States, while American sailing vessels clearing from Cuba with cargo to the ports of the United States pay in Cuban ports \$1.35 per ton on their cargoes. Thus discriminating or countervailing duties on tonnage are levied upon the vessels of the United States in Cuban ports.

The laws of the United States authorize the President, on certain conditions of reciprocity, for which satisfactory proof shall be given, to suspend or discontinue the discriminating foreign duties on tonnage and imports. The object of Congress was to secure for American vessels the same treatment as was accorded to foreign vessels. In 1877 Señor Mantilla appealed to the provisions of the law in order to secure the exemption of Spanish vessels from the discriminating duties levied on Spanish vessels in the United States, and declared that Spain "had not levied on American tonnage any greater or other charges than she levied on Spanish tonnage," and he supported his declaration by a certificate from the auditor of customs at Havana.

Upon this declaration being confirmed by the ministry at Madrid, the Secretary of the Treasury directed the suppression of the discriminating tonnage tax of which complaint had been made. The late tonnage regulations at Havana, based upon the Spanish law of July, 1882, are in plain opposition to the declaration of Señor Mantilla and the Spanish ministry, and unless they are revoked they constitute such a discrimination against American vessels as calls for the enforcement of the corresponding measures indicated by Congress.

The instructions of my Government are so explicit that I must beg your Excellency's early and favorable attention to the matters embraced in this memorandum.

[Inclosure 2 in No. 58.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,  
Madrid, April 26, 1886.

EXCELLENCY: I take the liberty of renewing, in strong terms, the wish that the Government of Her Catholic Majesty may find it agreeable to heed the earnest desire and expectation of the United States for the removal and correction of the grievances

emphasized in my memorandum. Every day's delay complicates the trouble and increases the number of wrongs. These differential flag duties and the obnoxious consular tax collected in American ports have been so often brought to the attention of your Excellency's predecessors that my Government daily looks for such action from the present enlightened ministry as will correct serious existing abuses, and put both Governments in a more favorable condition for conforming their commercial policy to the obvious interests of the two countries.

I am, &c.,

J. L. M. CURRY.

No. 383.

*Mr. Curry to Mr. Bayard.*

No. 62.]

LEGATION OF THE UNITED STATES,  
*Madrid, May 29, 1886. (Received June 14.)*

SIR: I have the honor to inclose the text in English and Spanish of the commercial agreement between England and Spain lately signed at this capital.

I have, &c.,

J. L. M. CURRY.

Inclosure in No. 62.—English text.]

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Government of Her Majesty the Queen Regent of Spain, being desirous of facilitating the commercial relations of their respective countries, have named as their representatives for that purpose:

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir F. Clare Ford, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary at Madrid, &c.;

The Government of Her Majesty the Queen Regent of Spain, His Excellency Señor Don Segismundo Moret y Prendergast, Minister of State, &c.;

Who being duly authorized by their respective Governments have agreed upon the following articles:

I. The Government of Her Majesty the Queen Regent of Spain will grant to the United Kingdom of Great Britain and Ireland, and to her Britannic Majesty's colonies and foreign possessions, most favored-nation treatment in all that concerns commerce, navigation, and consular rights and privileges in Spain, and in the Spanish colonies and foreign possessions, coextensive in amount of benefit with that accorded to France and Germany under the treaties of the 6th February, 1882, and the 12th July, 1883. The provisions of this convention shall come into operation on the 1st July next, unless by mutual consent any other date may be fixed, and on condition that on that date the alcoholic scale, according to which duties are levied on Spanish wines on their introduction into the United Kingdom of Great Britain and Ireland, is modified in accordance with the terms of the following article:

II. The Government of Her Britannic Majesty will continue to grant to Spain, her colonies and foreign possessions, most favored-nation treatment in the United Kingdom of Great Britain and Ireland, and in Her Britannic Majesty's colonies and foreign possessions, in all that concerns commerce, navigation, and consular rights and privileges. They will, in addition, apply to Parliament for the necessary authority to provide that the limit of the lower half of the alcoholic scale shall extend up to but not exceed 30 degrees of proof spirit.

III. The present convention has been drawn up subject to the sanction of legislatures of the United Kingdom of Great Britain and Ireland and of Spain, respectively. When approved it shall remain in force until the 30th June, 1892, and in case neither of the high contracting parties shall have notified, twelve months before the said date, the intention of terminating it, the present convention shall remain binding until the expiration of one year from the day on which either of the two high contracting parties shall have denounced it.

Done in duplicate at Madrid, this 26th day of April, 1886.

F. CLARE FORD.  
S. MORET.



No. 384.

*Mr. Curry to Mr. Bayard.*

No. 64.]

LEGATION OF THE UNITED STATES,  
*Madrid, June 5, 1886. (Received June 21.)*

SIR: Referring to my dispatch No. 58, of the 21st ultimo, I have the honor and the pleasure to report that to-day I sent you a cablegram, stating that I was assured by the minister of foreign affairs that orders would shortly be issued which would remove the difference in the treatment of Spanish and American vessels in Cuba and Porto Rico, which had been the subject of complaint.

This was based on a letter from the minister of state, a copy of which is inclosed. It will be seen that the promise to remove the discriminations against American shipping is full and complete, as demanded by the Government of the United States in the execution of the agreement of February 13, 1884. The "necessary orders" to effect the equalization of American and Spanish flags this legation hopes to be able to report in a few days.

It may not be amiss, amid our rejoicings over the early accomplishment of what has called forth so much diplomatic exertion and anxiety, and awakened so much interest in the United States, to do the minister of state, Señor Moret, the justice to say that during the continuous negotiations he has exhibited a constant desire and purpose to act with the fullest justice, and to bring into closest friendship his own country and the United States.

I have, &amp;c.,

J. L. M. CURRY.

[Inclosure in No. 64.]

*Señor Moret to Mr. Curry.*MINISTRY OF STATE, *June 4, 1886.*

MY DEAR SIR: I have just had an interview with my colleague the colonial secretary, and I have the pleasure to inform you that in spite of his bad health we have discussed thoroughly the question of the equalization of the Spanish and American flags, and have agreed to have it put into practice at once in accordance with the principles of the "*modus vivendi*" of 1884.

My colleague shall issue the necessary orders to remove any difference existing at present between Spanish and American ships in the ports of the Antilles, and you may therefore inform your Government that any discriminating duties or taxes such as those you mention shall be corrected without further delay.

Moreover, if after the orders which will be immediately enforced, any grievance still arises, you may rely upon the loyalty and fairness of the Spanish Government and be sure it will be removed as soon as it is brought to my knowledge.

Hoping that this matter will be now settled in the most satisfactory manner for both countries, and that their friendship will be increased, I remain, &c.,

S. MORET.

No. 385.

*Mr. Curry to Mr. Bayard.*

No. 69.]

LEGATION OF THE UNITED STATES,  
*Madrid, June 23, 1886. (Received July 7.)*

SIR: I have the honor to inclose a copy of an order issued from the ministry of ultramar to the governors-general of Cuba and Porto Rico, respecting the suppression of the differential flag duties and a proposed

equalization of navigation dues in those islands, a translation of the same, and of a note addressed to Señor Moret, minister of state.

The urgent instructions of the Department to use my best exertions to secure a suppression of the "rainous differential duty," which practically prohibits a vessel of the United States from carrying to Cuba productions of another country, even when shipped from the United States, and the continued protests of American merchants and shippers against such onerous discriminations, justified the legation, it was thought, in cabling a summary of the royal order.

The authoritative interpretation of the agreement of February, 1884, in accordance with the contention of the United States and in opposition to the past, persistent opinion of the authorities in Cuba and the Government, may almost be regarded as a new *modus vivendi*. \* \* \* The Department may indulge in some gratification at the termination of a controversy which, in some phase, has perplexed it and annoyed our commerce for half a century.

I have, &c.,

J. L. M. CURRY.

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[Inclosure 1 in No. 69.—Translation.]

*Minister of ultramar to governors-general of Cuba and Porto Rico.*

EXCELLENCY: The Minister Plenipotentiary of the United States of America has objected to the Government of His Majesty in regard to the manner in which the agreement of February 13, 1884, is executed in Cuba (that island), and alleges that the first article gives the right to the North American flag to be placed on equal terms with the Spanish flag in the ports of that island in regard to the collection of dues of every kind, and complains that in that island the differential duty is maintained in respect to foreign merchandise transhipped in American ports, as well as of the fact that navigation dues continue to be exacted on American different from those established for Spanish vessels; and in view of his arguments and of the premises that aid in the correct interpretation of the said agreement, His Majesty the King (whom God guard), and in his name Her Majesty the Queen Regent of the Kingdom, for the purpose of showing the good disposition of Spain toward the United States and the good faith with which it undertakes the accomplishment (execution) of treaties, has deigned to order, ratifying what was established by the royal order of May 7, 1885, that the American flag in the direct commerce with the islands of Cuba and Porto Rico shall be in every respect placed on an equal basis with Spain in the conduct of articles that are the products of and proceed from the United States.

In regard to navigation dues, although the equalization of American with Spanish vessels is not provided for in the agreement, it is the will of Her Majesty, from deference to the wishes of said nation, that as soon as it is shown by the representative of said States in that island that his Government has granted this benefit to Spanish vessels, the authorities in Cuba shall proceed to apply it to American vessels in exact reciprocity and in harmony with what was established by royal decree of June 4, 1868.

By royal order I communicate this to your excellency for your information, and with a view to the results that follow therefrom. God guard your Excellency many years.

GAMAZO.

Madrid, June 22, 1886.

*The GOVERNORS-GENERAL of the Islands of Cuba and Porto Rico.*

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[Inclosure 2 in No. 69.]

*Mr. Curry to the minister of state.*

LEGATION OF THE UNITED STATES,  
*Madrid, June 23, 1886.*

EXCELLENCY: The official orders issued from the ministry of ultramar, placing products of the United States and products of foreign countries transhipped in ports of the United States, carried to the Antilles in vessels of the United States, on an

equal basis with such products carried in Spanish vessels, and consenting to equalize navigation dues in the ports of Cuba, a copy of which you did me the kindness to send in advance of promulgation, will be received by the Government of the United States with the liveliest satisfaction, as renewed proof of the friendly disposition of Spain and of the desire to promote larger and more unrestricted commercial intercourse.

In this expression of the pleasure of my Government I must not omit to convey to you my deep sense of your courtesy and of the liberal views which have marked your action in reference to the interpretation of the agreement of February 13, 1884.

I take this opportunity of renewing, &c.

J. L. M. CURRY.

No. 386.

*Mr. Bayard to Mr. Curry.*

No. 91.]

DEPARTMENT OF STATE,  
*Washington, July 9, 1886.*

SIR: I have to say that copies of your No. 64, of June 5 last, and of your telegram of June 23 were sent to the Secretary of the Treasury, and I quote as follows from the reply of his Department of the 7th instant:

Spanish vessels, with their cargoes of whatever nature, are admitted from foreign ports, including Cuba and Porto Rico, in all ports of entry in the United States on precisely the same terms as vessels of the United States. No discrimination against such vessels in favor of vessels of the United States is authorized by law or regulations.

I am, &c.,

T. F. BAYARD.

No. 387.

*Mr. Bayard to Mr. Curry.*

No. 93.]

DEPARTMENT OF STATE,  
*Washington, July 12, 1886.*

SIR: I have read with peculiar satisfaction your No. 69, of the 23d ultimo, announcing the prohibition of the differential flag duties which have been applied in the ports of the Antilles, to the prejudice of our vessels carrying foreign transshipped products, and the order equalizing navigation dues in the ports of Cuba, &c.

A copy will be sent to our consul-general at Havana.

I am, &c.,

T. F. BAYARD.

No. 387½.

*Mr. Porter to Mr. Strobel.*

No. 112.]

DEPARTMENT OF STATE,  
*Washington, August 21, 1886.*

SIR: I transmit herewith a copy of a telegram just received from the consul-general of the United States at Havana, and of a letter from Mr. William H. F. Hughes, of the firm of James E. Ward & Co., of New



York, agents of the "Ward line" of steamships, both relating to the unexplained delay in the enforcement of the recent royal order for the due execution of the commercial agreement of January 2, February 13, 1884.

In the absence of the detailed information expected from the consul-general, the Department refrains from presently instructing you in the premises further than to suggest that you call Señor Moret's attention to what appears to be a conflict of authority in Cuba, whereby the enforcement of the royal order in question is delayed to the serious injury of American commercial interests in that island.

I am, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

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[Inclosure 1 in No. 112—Telegram.]

*Mr. Williams to Mr. Bayard.*

HAVANA, August 19, 1886.

Mr. Bayard is informed by Mr. Williams that, while the *Intendente* appears to be in favor of executing the royal order, the *Administracion Central de Aduanas* declines to do so. That, by virtue of an understanding with the former, he has drawn up a protest which he will lay before the Governor-General on the following day, the latter's order for carrying into effect the royal decree having appeared in the Gazette of August 3.

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[Inclosure 2 in No. 112.]

*Mr. Hughes to Mr. Adee.*

NEW YORK, August 19, 1886.

DEAR SIR: After a severe struggle in Havana between our agents, aided by our consul, Mr. Williams, and the custom-house officials, we succeeded in having the recent decree of the Madrid government, equalizing American and Spanish vessels and admitting foreign goods same as by Spanish, published officially. At about that time we shipped some foreign rice which, under the new law, should pass customs under the third column of the tariff; but up to the date of our last letters, although we are informed that official orders were issued, and in fact served by our consul in person, it seems that no attention whatever is paid by the officers and the rice mentioned remained on the public wharf, and old rates of tonnage tax have been demanded. We just received a telegram saying nothing settled yet about rice or tonnage, and urging the intervention of our Government. \* \* \* Doubtless Consul Williams has already cabled to your department how matters stand, and I hope that you will see the necessity of taking prompt and very earnest measures. \* \* \*

Yours, &c.,

WILLIAM H. HUGHES.

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No. 388.

*Mr. Strobel to Mr. Bayard.*

No. 111.]

LEGATION OF THE UNITED STATES,  
Madrid, September 8, 1886. (Received September 27.)

SIR: I have the honor to report that I have had a conversation with the minister of state in reference to the apparent conflict of authority among Cuban officials, and consequent delay in executing the royal order of June 22, 1886, as announced in your instruction No. 112 of the 21st ultimo.

On hearing my statement Señor Moret replied that the construction of the *modus vivendi* of February 13, 1884, as meaning "American goods in American vessels," had been so long sustained by the Spanish colonial office, and had become so firmly wrought into the mind of the Cuban custom-house officials that he could well understand how some such difficulty as reported might have arisen. He said that there was not the slightest doubt of the explicitness of the order, and requested me to make a note of the facts I had stated. I therefore left with him a memorandum of the same, a copy and translation of which I beg to inclose.

I have, &c.,

EDWARD H. STROBEL.

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[Inclosure in No, 111.—Translation.]

MEMORANDUM.

The Chargé d' Affaires of the United States begs to call the attention of his Excellency the Minister of State to the fact that the execution of the royal order of June, 1886, suppressing the differential flag duty, and admitting foreign goods, transhipped in American ports in American vessels, under the third column of the tariff as allowed to Spanish vessels, has been disregarded by the *administration central de Aduanas*, although favored by the *intendente*, and in spite of the fact that the order of the governor-general commanding the execution was published in the *Gaceta*, of Havana, on the 3d of August.

The firm of James E. Ward & Co., of New York, about the time of the issuing of the order shipped some foreign rice to Cuba. The custom-house authorities refused to allow its admission under the third column, and on August 19 it was still lying on the public wharf.

In the expectation of more detailed information on this subject, the attention of his Excellency is in the mean time directed in this informal manner to what appears to be a conflict of authority in Cuba, whereby the enforcement of the order is delayed, to the serious injury of American commercial interests in that island.

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No. 389.

[Telegram.]

*Mr. Bayard to Mr. Curry.*

WASHINGTON, September 24, 1886.

Mr. Curry is informed that, according to the report of the United States consul-general at Havana, a telegram has been received by the central administration of Cuba from the Spanish minister of the colonies, which declares that the royal order of 22d of June is in confirmation of that of February, 1884, and that, therefore, only natural products of the United States, shipped directly from American ports and in American vessels to Cuba and Porto Rico, come under the third column of the tariff, but that foreign products, though shipped in American vessels and from ports of the United States, are not included under the said third column. The agreement made with him has, therefore, been nullified.

Mr. Curry is further informed that, according to the United States consul-general's report, the Spanish authorities in Cuba continue to collect the same tonnage dues as previously, despite the order issued by the *intendente*, on the 12th of August.

No. 390.

*Mr. Curry to Mr. Bayard.*

No. 119.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 29, 1886. (Received October 18.)*

SIR: Your cablegram produced in the legation surprise. At once I sought an interview with the minister of state to ask an explanation of what, if unexplained, would place the Spanish Government in the attitude of a nullification of its solemn and clearly understood agreement. The minister being engaged in a council, I left a note asking an early interview. This was granted for the next day, and I availed myself of it to present the matter of your cablegram in the strongest light I could. I submitted a memorandum at the same time, a copy of which is inclosed. The minister said my statement was strictly accurate, and he was sure there was some misunderstanding, as the object of the order of the minister of ultramar was to equalize the flags of the two nations. On my request to put in writing such a statement as might be used as a basis for a cablegram, he said he would consult with his colleague of ultramar and send the paper in twenty-four hours.

\* \* \* I waited two days and received a note asking me "to excuse these unavoidable delays," as "the colonial secretary has cabled for some information wanted to give the answer I (he) promised." To this note I responded immediately.

Thus the matter stands. The Madrid papers, about two weeks ago, discovered that the order of June had been issued and began a series of attacks on the minister of state and the Government. What effect these criticisms had can only be conjectured.

Of the sincerity of the minister of state and his purpose, so far as lies in his power, to carry out, in good faith, the agreement, I have not a doubt.

The matter shall have constant and earnest attention, and the Department shall be advised by cablegram whenever anything definite occurs.

\* \* \* \* \*

I have, &c.,

J. L. M. CURRY.

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[Inclosure 1 in No. 119.]

MEMORANDUM.

Article I of the commercial agreement of February 13, 1884, expressly provided for the suppression of differential flag duties, and that the American flag in the Antilles should be treated upon precisely the same terms as the Spanish flag. The fact, however, that goods transshipped in American ports in Spanish vessels were admitted under the third column of the tariff, while the same class of goods in American vessels was compelled to pay the fourth column duties, was an overwhelming discrimination in favor of Spanish and against American shipping, and the United States has, from the moment that the commercial agreement was construed in this manner by the Spanish Government, protested against the construction and instructed its representatives at this court to use every effort to induce the Government to place the flags of the two countries upon the same basis, as was expressly provided for by the agreement.

Mr. Curry, in continuation of the negotiations of his predecessors to this end, sent to his Excellency the minister of state on the 10th of April, 1886, a memorandum, section 3 of which was devoted to this question. In that memorandum Mr. Curry said:

"It appears, however, that Spanish vessels are permitted to carry foreign goods transshipped in American ports to Cuba and Porto Rico, and have them admitted under the third column of the tariffs of those islands, while similar goods carried in American vessels are required to pay the higher duties of the fourth column. This, as it



must be apparent to your Excellency, is a manifest discrimination against the American flag, the imposition of a different duty, and consequently a violation of Article I of the agreement. The President of the United States is authorized to continue the suspension of the discriminating duty so long as the reciprocal exemption of vessels of the United States and their cargoes shall continue, and no longer."

On May 20, in order to remove any possible misunderstanding, Mr. Curry, in another note, again reviewed the whole question, and in view of the agitation in the United States in favor of retaliatory discrimination, urged that immediate measures be taken for the removal of the cause of complaint. He continued, in conversation and letters, to press it upon the attention of the minister of state, until, on June 4, Señor Moret wrote:

"MY DEAR SIR: I have just had an interview with my colleague, the colonial secretary, and I have the pleasure to inform you that, in spite of his bad health, we have discussed thoroughly the question of the equalization of the Spanish and American flags, and have agreed to have it put into practice at once in accordance with the principles of the *modus vivendi* of 1884.

"My colleague shall issue the necessary orders to remove any difference existing at present between Spanish and American ships in the ports of the Antilles, and you may therefore inform your Government that any discriminating duties or taxes, such as those you mention, shall be corrected without further delay.

"Moreover, if after the orders, which will be immediately enforced, any grievance still arises, you may rely upon the loyalty and fairness of the Spanish Government, and be sure it will be removed as soon as it is brought to my knowledge."

(On June 30 an official communication was received containing the order, which was as follows: \*

It will be observed that to avoid ambiguity or misconception in the words "*productos y procedencias*" the order begins by stating the complaint of the minister of the United States that "the minister of the United States objects \* \* \* that in that island the differential duty is maintained in respect to foreign merchandise transhipped in American ports."

In view of the presumed successful close of long and tedious negotiations and the satisfaction felt and expressed by the Government of the United States at the final determination of the Spanish Government to enforce the agreement of February 13, 1884, in accordance with the terms of Article I, which expressly provides for the suppression of differential flag duties, the minister of the United States has learned with regret, through a telegram just received from his Government, that the consul-general of the United States at Havana has reported that the minister of ultramar has telegraphed to the "*administracion central de aduanas*" of Havana that the order of June 22 permits only products of the United States shipped from ports of the United States in vessels of the United States to the Antilles to be admitted under the third column of the tariff. As it is clearly stated in the preamble of that order, as has been shown above, that the reason for its promulgation was the complaint made of the maintenance in the Antilles of the differential flag duty in respect to foreign goods transhipped in American ports, such instructions to the customs authorities amount not to a construction of the order, but to a declaration that the order is null and void. The minister of the United States hopes and believes that there has been some misunderstanding on the part of the consul-general of the United States or the local authorities of Cuba. He cannot believe that the Spanish Government, after long negotiations and explicit promises, could decide to render its own order utterly abortive by prohibiting the fulfillment of the very objects for which it was issued.

He is certain, therefore, that the difficulty must result from some misunderstanding which the Government of Her Majesty will hasten to rectify.

Presented by the minister of the United States to his Excellency the Minister of State on the 25th of September, 1886.

[Inclosure 2 in No. 119.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,  
Madrid, September 28, 1886.

DEAR SIR: I have the honor to acknowledge your kindness in sending me a note of yesterday suggesting "unavoidable delay" as growing out of a cablegram of the colonial secretary, in giving me a response to the subject-matter of our interview and of my memorandum of the 25th. May I venture to express very strongly the hope

\*See translation of royal order of June 22, inclosed in Mr. Curry's No. 69, page 799.

that the order of the colonial secretary of June last will be reaffirmed promptly, and in such language that the Cuban authorities cannot misconstrue it? It seems that the colonial officers have nullified a positive and clearly expressed order of the colonial secretary to effectuate Article I of the commercial agreement of February 13, 1884, and "to remove any difference existing between Spanish and American ships in the ports of the Antilles."

The just and honorable determination of the Government of Spain to enforce the language and principles of the agreement of February, 1884, and suppress the differential flag duties excited the liveliest satisfaction in the United States, as drawing the two nations into closer and mutually profitable commercial intercourse, and as giving still another proof of the fidelity with which Spain observes her obligations. The surprise and astonishment were proportionately great when information was conveyed to Washington that inequalities, vigorously protested against, were still enforced in the Antilles. I inclose slips from London Times and *Imparcial*, confirming the information which led my Government to appeal to your Excellency for an explanation.

The order of the colonial secretary and Article I of the commercial agreement on which it was based were not, as some ill-informed journals suppose, a gratuitous concession to the United States on the part of Spain. On the contrary, the equalization of the flags of the two countries was a solemn stipulation in return for a full and most advantageous *quid pro quo*. For fifty years Spain had sought release from a retaliatory duty reluctantly imposed by the United States, and the promise to put flags of the two countries on the same footing secured what she had so long desired.

The urgency of my Government and the excitement among shippers will excuse me in the eyes of your Excellency for asking such early action, in the most efficacious way, as will remove all possible misunderstanding and preserve in fullest harmony the cordial relations for which the two Governments have so earnestly and successfully striven.

In all these negotiations my Government is happy in dealing with such enlightened statesmen, and its representative is honored in being permitted to renew the assurances, &c.,

J. L. M. CURRY.

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[Inclosure 3 in No. 119.—Extract from *El Resumen*.—Translation.]

SEPTEMBER 14, 1886.

#### A CONFLICT.

We have received information this evening referring to a question of great importance, hitherto unknown by the press and public opinion. Thanks to information, the exactitude of which cannot be doubted, we propose to bring it to light with all the details that have reached us. While this question does not belong to the domain of politics, it is so nearly related to it that it may be the origin of a ministerial conflict and of difficulties in our international relations.

The fact of the matter is that the representative of the United States in Spain began a short time ago to take steps to the end that the great North American Republic, and, above all, the marine, might obtain greater advantages than those offered by the existing commercial treaty, not by any means of a new agreement, but by virtue of a new interpretation of the present one.

In accordance with the terms of the existing agreement, the products of the United States enter the Spanish Antilles, paying duty under the third column of the tariff as foreign products carried under the national flag.

The North American minister, understanding well, on addressing himself to our Government, the consequences of what he proposed, and counting perhaps on our usual accessibility on the subject of foreign pretensions, formulated the request that the benefit of the third column be extended to whatever *proceeds* from the United States, or what is the same thing, that everything arriving in Cuba and Porto Rico under the flag of the Republic, whether North American products or not, should enjoy the advantages of the third column.

It appears that the minister of state, without taking into account what this meant, welcomed the proposals of the representative of the United States, agreed to do what was requested, and dictated a royal order which placed the desired construction upon the clauses of the treaty.

The subject passed to the ministry of ultramar for the dictation of the royal order, and having been received there as a matter in the ordinary run of business, this question which appeared so insignificant, but which was in reality nothing less than the total ruin of our poor merchant marine, followed the usual course.

We do not know how or when or where the difficulty fortunately arose, the matter was paralyzed and began to attract the attention of the representatives of the decayed interests of our navigation, as well as of those who watch here over the mercantile interests of other countries.

The concession granted in principle to the United States would be soon saddled with the extension of this favor to other nations, who by their conventions with us have the right to the treatment of the most favored nation.

And from the moment in which not only the products, but what proceeds from, enter the Antilles with the shelter of the third column, what would remain of our merchant marine can be imagined.

The very productions of Spain would be snatched from our ports by a competition which it would be impossible to sustain, and all the commerce of the Antilles, no matter whence it came or with whom carried on, would finally fall into the hands of the United States, whose rates of freight are always more advantageous.

There was not wanting some one to see this in time, and the subject is paralyzed, as we have said.

But the question is not settled, and is far from being so. The efforts continue, the engagement exists, and they do not know how to escape from it.

Perhaps the circumstance that the minister of ultramar has hastened his return to Madrid may have some relation with what we refer to.

We could almost venture to say that it has.

Will the ministerial press now tell me what is going to be done; because it is evident to us that the conflict is begun, and we believe that we are rendering a service to the interests of the country in revealing the very grave peril that threatens our decayed naval industries.

No. 391.

[Telegram.]

*Mr. Porter to Mr. Curry.*

WASHINGTON, September 29, 1886.

Mr. Curry is informed that there is very urgent necessity that the commercial agreement made with him should be promptly and satisfactorily enforced in Cuba; that the authority granted by statute to the President to permit the continuance to Spain of the special privileges which had been granted, rested solely on the ground that these same privileges were to be accorded and continued to the United States; that if the latter are interrupted from any cause whatsoever, the President will be obliged to withdraw those accorded by the proclamation of 1884, and that there can be no delay, under the present condition of circumstances, in this withdrawal.

No. 392.

[Telegram.]

*Mr. Curry to Mr. Bayard.*

MADRID, September 30, 1886.

Mr. Curry informs Mr. Bayard that he has received the latter's telegrams; that immediate action on their subject has been promised by the minister of state. He requests that the withdrawal of the proclamation of 1884 may be delayed until after a definite report has been made by the legation at Madrid.



No. 393.

[Telegram.]

*Mr. Porter to Mr. Curry.*

WASHINGTON, October 1, 1886.

Mr. Porter informs Mr. Curry that the delay asked will be accorded

No. 394.

[Telegram.]

*Mr. Porter to Mr. Curry.*

WASHINGTON, October 4, 1886.

Mr. Porter asks whether an early date for a definite answer can be named. He states that if the President is compelled to delay his action such inconvenience and loss will be caused that the postponement can not be long continued.

No. 395.

*Mr. Porter to Mr. Curry.*

No. 124.]

DEPARTMENT OF STATE,  
Washington, October 4, 1886.

SIR: Mr. Strobel's No. 111, of the 8th ultimo, in relation to the conflict of interpretation which has sprung up in Havana concerning the effect of the royal order of 22d of June, 1886, for the due application of the commercial agreement of 1884, has been received.

The telegrams sent to you on the 24th and 29th ultimo, and your reply of the 30th, have put the matter in so urgent a shape that it is presumed and hoped that a conclusion will have been reached before you receive this instruction. It seems needless to elaborate further the ample instructions given you on the subject in the Department's instructions No. 39, of 23d of February, 1886, and No. 56, of 4th of May last, or to endeavor to more fully impress on the mind of Her Majesty's Government the President's duty in the premises, under section 4228 of the Revised Statutes, should the complete equivalent on the part of Spain for the President's suspensory proclamation of February, 1884, be longer withheld. It may be remarked, however, that it is not easily understood here how the explicit declarations and assurances given by Señor Moret to Mr. Strobel on the 8th of September could have been followed by so antagonistic a course as that taken by the minister of ultramarine in his telegram to the governor-general of the Island of Cuba, of the 17th of September, a translation of which is hereto appended for your information.

I am, &amp;c.,

JAS. D. PORTER,  
*Acting Secretary.*

[Inclosure in No. 124.—Translation.]

*Central administration of customs of the Island of Cuba.*

By telegram of yesterday the ministry of the colonies communicates to his Excellency the governor-general the following:

"Royal order of June 22 ratifies and confirms that of September 13, 1884, in the understanding that third column of tariff is applicable only to natural products of the United States proceeding from their ports and in their vessels directly to Spanish West Indies. The equality of flag only embraces said products under conditions mentioned, but in no case foreign products even when brought in American vessels from United States."

And his Excellency having ordered its execution under this date the same is published in the Gazette for general information.

Havana, 18th of September, 1886.

The administrator

JOAQUIN B. VALDES.

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No. 396.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

MADRID, October 6, 1886. (Received October 6.)

Mr. Curry informs Mr. Bayard that the collection of discriminating duties will continue as in the past on the products of foreign countries which are shipped to Cuba and Porto Rico from ports of the United States.

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No. 397.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 13, 1886.

Mr. Bayard informs Mr. Curry that inasmuch as the Spanish Government has decided, according to Mr. Curry's telegram of the 6th of October, that it will continue to levy discriminating duties on the products of foreign countries shipped from ports of the United States to the Antilles in American vessels, no other course is left to the President save that of revoking the proclamation of February 14, 1884; that the proclamation of revocation bears date October 13, and is to take effect October 25, and that thus reasonable notice will be given.

He at the same time requests Mr. Curry to inform the Spanish minister for foreign affairs of the action taken, and to state to him that the Government of the United States earnestly regrets that the President should, owing to the action of Spain, have been compelled most reluctantly to take this unavoidable decision, and that it is hoped that all discrimination may be prevented by a prompt adjustment, and that thus an end may be put to all unwilling retaliations.

No. 398.

*Mr. Curry to Mr. Bayard.*

No. 132. |

LEGATION OF THE UNITED STATES,  
*Madrid, October 14, 1886. (Received October 25.)*

SIR: Yesterday I received a note from minister of state, a copy of which with translation is inclosed.

The note removes all doubt as to the interpretation which the Spanish Government puts upon the royal order of 22d June, 1886, and the agreement of 13th February, 1884. While writing an acknowledgment I received the cablegram instructing me to communicate to the minister the revocation of the proclamation of 14th February, 1884.

I trust the prompt and necessary action of the President will dispose the mind of the present Government to an early adjustment of all pending disputes.

\* \* \* \* \*

I have, &c.,

J. L. M. CURRY.

[Inclosure in No. 132.—Translation.]

*Mr. Moret to Mr. Curry.*

MINISTRY OF STATE,  
*Palace, October 9, 1886.*

EXCELLENCY: I have the honor to inform your Excellency that I am advised by the minister of ultramar that he has officially stated to the governor-general of the Island of Cuba that the royal order of 22d June ultimo, ratifies and confirms that of 13th September, 1884, it being understood by both that the third column of the tariff is only applicable to the natural products of the United States proceeding from its ports and shipped in its vessels directly to the Spanish Antilles; therefore the equality of flag only embraces said products and in the conditions set forth; but in no case foreign products, even when the vessels in which they are carried are and proceed from the United States.

This decision is the same as is contained in the two orders mentioned, although it is set forth in different words, and the only proper one conforming to the text of the agreement with the United States faithfully and honestly interpreted, as the equality of flag referred to in the royal order of 22d June, 1886, exclusively refers to the merchandise and products belonging to said nation and in no case to the others which through transshipment or otherwise may be carried by its vessels directly from the North American ports to those of Cuba and Porto Rico.

I avail, &c.,

S. MORET.

[Inclosure 2 in No. 132.]

*Mr. Curry to Mr. Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, October 14, 1886.*

EXCELLENCY: Your note of the 9th October, received yesterday, confirms what I telegraphed to my Government several days ago as to the action of the Spanish Government in construing adversely to the equalization of the Spanish and American flags the royal order of 22d June last. After the notes of the 4th and 5th of October, which I had the honor to address to your excellency, it would be superfluous to express the astonishment and regret of the Government of the United States at such unexpected action. On the 23d June I wrote thus to your excellency:

"The official orders issued from the ministry of ultramar, placing products of the United States and products of foreign countries transshipped in ports of the United States,



*carried to the Antilles in vessels of the United States on an equal basis with such products carried in Spanish vessels, &c.*, a copy of which you did me the kindness to send in advance of promulgation, will be received by the Government of the United States with liveliest satisfaction, as renewed proof of the friendly disposition of Spain, and of the desire to promote larger and more unrestricted commercial intercourse."

It was supposed that the royal order conformed to the understanding of the United States in assenting to the agreement of February, 1884, and paying an adequate compensation for the suppression of the differential flag duties. The action of the Spanish Government practically nullifies the agreement of 1884, as contemplated and executed by the United States, and therefore leaves the President no alternative but to revoke the proclamation of February 14, 1884, suspending the collection of the 10 per cent. duty imposed on the products of, and articles proceeding from, Cuba and Porto Rico, under the Spanish flag.

I am instructed, therefore, to inform your excellency that the revocation was proclaimed yesterday, but, in order to give reasonable notice, it will not go into effect until the 25th instant.

The President of the United States takes this action most reluctantly, being constrained thereto by the course of the Spanish Government.

For more than a quarter of a century the Governments of Spain and the United States have been engaged in a contest of retaliatory tariffs. The good and the wise and the peace-loving of both countries must alike deplore this unprofitable and irritating strife. Civilization, good government, international peace, the prosperity of both countries, require the cessation of these retaliatory measures. Forbearing an unavailing discussion of the past, the two Governments can, it is to be hoped, agree upon some adjustment, not dilatory, but prompt, of all questions of dispute. The Government of the United States holds itself in readiness to co-operate with the sagacious statesmanship of the present Government to effect a speedy and honorable settlement of all questions which may engender irritation or prevent the fullest commercial intercourse.

I avail, &c.,

J. L. M. CURRY.

No. 399.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 16, 1886.

Mr. Bayard informs Mr. Curry that the Department has received a telegram from the United States consul-general at Havana, stating that public sentiment strongly favors the placing of products of foreign countries transshipped in ports of the United States under the third column of the tariff; that the Spanish authorities in Cuba, however, continue to levy discriminating tonnage dues on American vessels. He advises Mr. Curry that tonnage should be included in any negotiation looking towards the revival of the former agreement.

No. 400.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

MADRID, October 16, 1886.

Mr. Curry transmits the proposition of the Spanish minister of state in the latter's language, and expresses the hope that the postponement of the date of the taking effect of the President's proclamation of October 13, requested by the said minister, be accorded.

He asks whether the United States Government would consider acceptable the proposal of Mr. Moret relating to the third and fourth columns.

The proposition of Mr. Moret is as follows:

Firstly. The postponement to the 25th of November proximo of the date of October 25 assigned in the proclamation of October 13, 1886; secondly, within the period mentioned, the minister of the United States and the Government of Spain are to come to an understanding or to arrange a *modus vivendi* by means of which Spanish and American vessels are to receive perfectly equal treatment so far as tonnage fees and custom-house duties are concerned.

It is understood by equal treatment, firstly, that payment under the third column of the tariff will be required in the case of cargoes consisting of products of the United States shipped to ports thereof and in American vessels, which treatment is the same as that accorded to vessels flying the Spanish flag carrying products of the United States; secondly, that payment under the fourth column is to be required of cargoes consisting of the products of foreign countries, whether shipped at Spanish or American ports on Spanish or American vessels; thirdly, equalization of the tonnage fees for the flags of both countries.

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No. 401.

*Mr. Curry to Mr. Bayard.*

No. 135.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 16, 1886. (Received November 1.)*

SIR: Yesterday about noon I received a note, unofficial, from the minister of state, to which I immediately sent the subjoined reply.

At the appointed hour I repaired to the foreign office, and was promptly received by the minister in his usual bland and cordial manner. After some preliminaries, the President's revocation was referred to. \* \* \* What weighed most upon his mind was the suspicion, or the fear, that the revocation was in the nature of a menace, or would be regarded by the Spanish people in that light. It gave me pleasure to assure him, and through him his Government, with emphasis and earnestness, that nothing could be more remote from the purpose or desire of the President. Fortunately I had transcribed the law under which the President acted, and I left the transcript as the proof that the refusal of reciprocity left the President no alternative.

In the friendliest and most courteous manner, \* \* \* and manifestly not without impression, I referred to the industrial condition of Cuba, the successful competition of France and Germany in the growing of sugars, the consumption by the United States of 95 per cent. of the sugars exported from the Antilles, and showed that the imposition of the additional 10 per cent. would be practically a protective tariff to that extent in favor of French and German sugars.

After a free interchange of views Mr. Moret suggested, as a way out of present difficulties, the placing the collection of the tax under the fourth column. In reply I said that the United States preferred the third column as a lower tax, but what was specially sought was the removal of discriminations and the equalization of the flags. The minister was requested to put his proposal in writing so that I might cable it in his own words

to my Government. He seemed anxious to learn whether such a proposition as the basis of a new agreement would secure a postponement of the day when the operation of the tax would begin; but, of course, I declined to make any committal or express any opinion. He finally said he would formulate his proposal and send it to me in two hours. Last night at 10 o'clock I received the proposition. \* \* \*

This morning I visited him as he had requested, at his house, and told him his proposal was not essentially different from the language heretofore used by the Spanish Government. In former papers the promise was to "equalize the flags" in every respect; in this, it was proposed to place "on entirely equal terms." In view of former contentions, it was best to use very explicit language.

\* \* \* \* \*

Should the President accede to the request of the Spanish Government, or rather of the minister of state, this legation will be greatly pleased to have positive instructions or full suggestions.

I have, &c.,

J. L. M. CURRY.

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[Inclosure 1 in No. 135.]

*Mr. Moret to Mr. Curry.*

MINISTERIO DE ESTADO,  
Friday.

DEAR MR. CURRY: The decision of the President re-establishing the 10 per cent. duties upon goods and produce from the Spanish Antilles takes me by surprise.

As the point was being discussed between ourselves, it is not easy to explain the act of the President without any hint or intimation from you.

\* \* \* \* \*

After it I think nothing is to be done, but I will refrain to take any step without knowing your own mind.

For that reason, and despite my bad health, you will oblige me by calling at 5 o'clock at the foreign office, if such time is convenient for you.

Yours, sincerely,

S. MORET.

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[Inclosure 2 in No. 135.]

*Mr. Curry to Mr. Moret.*

MADRID, October 15, 1886.

DEAR MR. MORET: It will give me pleasure to meet you at the foreign office at 5 p. m. to-day.

I cannot very well understand, you will allow me in all frankness to say, how the action of the President should take you so by surprise. Under the laws of the United States he had no option to do otherwise. In my note to you of the 4th instant I stated, as explicitly as the language at my command enabled me to do, that to adhere to the construction put upon the royal order of June 22, 1886, and the agreement of 13th February, 1884, will be to deprive the agreement of all validity and "restore the contracting parties to the status which existed prior to the signing of the agreement."

In the interview which I had with you on the 12th, I stated that I expected every day to hear that the President had restored the 10 per cent. tax, and your reply was that it would complicate matters very much.

\* \* \* \* \*

When both the parties to a discussion stand on an equal or the same footing, a mutually satisfactory result is more likely to be reached.

I am extremely sorry to hear of your bad health, and I thank you, despite your suffering, that you have invited an interview. Knowing the extreme anxiety of my



Government to avoid any occasion of offense with the Government of Spain, and its willingness, nay, readiness, to promote the fullest commercial intercourse and the most amicable relations, I am not without hope that a discussion between us may lead to an agreement profitable to both countries and free from all ambiguous interpretation.

Yours, sincerely,

J. L. M. CURRY.

No. 402.

*Mr. Bayard to Mr. Curry.*

No. 126.]

DEPARTMENT OF STATE,  
Washington, October 19, 1886.

SIR: I inclose herewith for your information copy of a note\* of acknowledgment addressed to me by Mr. Muruaga, the Spanish minister here, to whom I transmitted copies of the President's proclamation of the 13th instant, with a note expressive of regret that the adoption of such a course had become inevitable. Copy† of my note of the 14th to Mr. Muruaga is herewith inclosed.

Mr. Muruaga has had several conferences with me looking to the adoption of some means of averting the undesirable state of things involved in a return to the old system of discriminations on both sides. While he exhibits commendable sincerity, he does not, however, appear to be authorized to submit any plan more acceptable than that suggested by your telegram of the 15th instant, and having in mind the confusion which would be likely to follow a dual examination of new bases of arrangement here and at Madrid, I took occasion to intimate to him that any proposal he might be authorized to make or deem it expedient to suggest would be made the occasion of prompt instruction by telegraph to you as the convenient channel of discussion.

The telegraph necessarily supersedes at this juncture full correspondence by mail; but I may here observe, in connection with the two propositions of the minister of state conveyed in your telegram of the 16th instant, as explained by your added comments thereon, that the scheme involves material discriminations against the carrying trade of the United States, in that it would—

(1) Impose a total discrimination against the ports of the United States as intermediate agencies for the movement of foreign goods—a movement which materially benefits our flag by giving it employment in bringing to our shores merchandise in transit for Cuba and Porto Rico;

(2) Exclude our flag from an important branch of the foreign trade of the Antilles, which is reserved for the Spanish flag—as, for instance, in the case of lines making round trips taking in the ports of a foreign country, as with the steamers under our flag plying between New York, Havana, and Vera Cruz.

Your dispatches, and especially your recent reports of interviews with and memoranda handed by you to Señor Moret, so abundantly exhibit your familiarity with the provisions of section 4228 of the Revised Statutes, which necessarily control the President, as to make elaboration of these points unnecessary at present.

I am, &c.,

T. F. BAYARD.

\* Published, pages 836, *infra*.

† Published, pages 834, *infra*.

No. 403.

*Mr. Bayard to Mr. Curry.*

No. 128.]

DEPARTMENT OF STATE,  
Washington, October 20, 1886

SIR: Your No. 119 of the 29th ultimo is received. The memorandum on the subject of the differential flag duty sent by you to the foreign office, a copy of which you inclose, is a clear and distinct statement of the issue.

With regard to the possibility of a renewed *modus vivendi*, instructions are deferred, as the cable, being now necessarily called into requisition, anticipates any communications by mail.

I am, &amp;c.,

T. F. BAYARD.

No. 404.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

MADRID, October 20, 1886. (Received October 20—9 p. m.)

Mr. Curry informs Mr. Bayard that he has been desired by the Spanish minister of state to say that the statement is authorized by the Government of Spain that it much desires the arrangement of the disagreement with the Government of the United States.

No. 405.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 21, 1886—11 a. m.

Mr. Bayard informs Mr. Curry that he is instructed to state to the Government of Spain that the accommodation of all differences is equally and earnestly desired by the President, and that, if notified that the Spanish Government will levy no discrimination against American vessels and cargoes which they carry from the United States or any foreign country, the proclamation of 1884 will be renewed by him.

No. 406.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

(Received October 21, 1886—10.45 p. m.)

Mr. Curry informs Mr. Bayard that he has authority from the Spanish minister of state to submit certain proposals:

Firstly. A suspension of the proclamation until January 1, 1887, unless the two Governments shall effect a satisfactory arrangement before that time.

Secondly. Up to that date admission under the third column of the tariff will be accorded to cargoes arriving in the ports of Cuba and Porto Rico in vessels whose owners are American citizens and which come from ports of the United States.

Thirdly. Authorization is to be given to the American minister at Madrid to enter into negotiations with the Spanish Government in order, either by a treaty or an agreement, to establish a permanent arrangement of the commercial relations between Spain and the United States on a basis which may prove advantageous to both countries.

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No. 407.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

MADRID, October 22, 1886. (Received October 22—10 a. m.)

Mr. Curry informs Mr. Bayard that, according to a telegram which he has received on that day, he makes the renewal of the agreement depend upon the inclusion therein of cargoes carried in ships of the United States from any foreign country. He desires to be informed whether this condition is indispensable to the conclusion of an agreement.

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No. 408.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 22, 1886—5.15 p. m.

Mr. Bayard informs Mr. Curry that the language of section 4228 is regarded by the President as exactly prescribing his course, and that cargoes from any foreign country are included thereunder; that he can assure the Government of Spain that the commerce to which these words refer is small in amount, and that the advantages which the shipping act of June 26, 1884, accords to the commerce of Spain are of great value; that no more is requested by the United States than is granted to Spain; that it is the desire of the American Government to prevent alternative discriminations, which are productive of injury to both countries.

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No. 409.

*Mr. Curry to Mr. Bayard.*

No. 135 *bis*.]

LEGATION OF THE UNITED STATES,  
 Madrid, October 22, 1886. (Received November 6.)

SIR: A late telegram from yourself prompted another effort on the part of this legation to secure the equalization of tonnage duties in the islands of Cuba and Porto Rico. I inclose a copy of the letter addressed



to the minister of state. This letter was read to the minister and early rectification of the wrong was promised. On the 20th I received a reply from the minister, a copy of which, with the Spanish text, I have the honor also to inclose. \* \* \*

I have, &c.,

J. L. M. CURRY.

[Inclosure 1 in No. 135 bis.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 11, 1886.*

EXCELLENCY: In the memorandum of suggestions as the basis for an agreement between Spain and the United States, the third item or article suggested "reciprocal abolition of all tonnage duties and the placing of the vessels of one nation on the same footing as national vessels in regard to port charges. My Government asks the equalization on the most favorable basis of tonnage dues in Cuba and Porto Rico, so that vessels of the United States shall be treated the same as Spanish vessels making like voyages. Under our laws vessels of all nationalities are charged in American ports tonnage dues to the amount of 30 cents per ton, once only in each year, but in Cuba and Porto Rico much higher duties, amounting to 65 cents, or \$1.30 per ton, according to the flag, are collected on every entrance into port, and this is a heavy and unequal tax on American vessels." In the same memorandum, the attention of Her Majesty's Government was directed to the onerous fines and penalties imposed for technical causes and enforced with severity. The vexatious moiety system practiced in the Antilles was animadverted upon and a reform was earnestly urged.

As these regulations, so contrary to the business principles on which mutually profitable commerce is based, were specially injurious to the United States, which buys about 95 per cent. of the sugar exported from Cuba, it was hoped that early steps would have been taken for their modification or removal. No direct response has, however, been made to the memorandum.

Your excellency afterwards communicated, for transmission to my Government, the royal order of 22d June, abolishing the differential flag duties as complained of by the minister in the name of his Government. In that order occur these words:

"In regard to navigation dues, although the equalization of American with Spanish vessels is not provided for in the agreement, it is the will of Her Majesty, from deference to the wishes of said nation, that as soon as it is shown by the representative of said States in that island that his Government has granted this benefit to Spanish vessels, the authorities in Cuba shall proceed to apply it to American vessels in exact reciprocity and in harmony with what was established by the royal decree of 4th June, 1878."

The minister of ultramar, in the argument in relation to differential flag duties, as effected by the agreement of February, 1884, dated October 2, speaks of the "courtous concessions made by the ministers of state and ultramar in respect of navigation dues and port and consular taxes."

In view of these distinct and gratifying statements, the Government of the United States learns, with surprise and sorrow, that in the province of Cuba tonnage dues on American are not equalized to those paid by Spanish vessels. The royal order has wrought no amelioration whatever in favor of American interests in Cuba and Porto Rico, nor secured the "benefits" which the minister of ultramar supposed, as the tonnage dues are collected as hitherto.

I flatter myself that the Spanish Government will seize the earliest and most effective mode of having its orders promptly and fully obeyed in Cuba, and that your excellency will enable me, without delay, to remove any apprehension of wrong that may have been occasioned by remote officials.

Confidently expecting an early and favorable answer,

I remain, &c.,

J. L. M. CURRY.

[Inclosure 2 in No. 135 bis.—Translation.]

MINISTRY OF STATE,  
*Palace, October 19, 1886.*

EXCELLENCY: In answer to your excellency's note of the 11th current relating to tonnage and port dues, I have the honor to inform you that, although all discussion over this matter seems altogether useless, after the proclamation of the President of

the United States of the 14th, His Majesty's Government will be ready to sustain and ratify the spirit of the royal order of 22d June last in regard to this matter, if a settlement of the commercial relations between the islands of Cuba and Porto Rico and the United States can be reached.

I avail myself, &c.

S. MORET.

[Inclosure 3 in No. 135 bis.—Translation.]

MINISTRY OF STATE,  
Palace, October 20, 1886.

EXCELLENCY: Your note of yesterday which I have just received is the answer to that which I had the honor to address to your Excellency under date of 17th. In it I answered in my turn those which, under date of 4th and 14th, and the memorandum dated 5th, your excellency had been pleased to address to me, in which the questions relating to the interpretation of the agreement of 1884 and equalization of the flags were exclusively dealt with. That relating to the tonnage fees was dealt with by your excellency in another special note, dated the 11th instant, to which I had the pleasure to answer on yesterday. I think as your excellency does that for the solution of the present difficulty the discussion of the past is not of great interest, but the Spanish Government will always wish to have it stated that on its part it has not given any occasion for the measure taken by the President of the United States on the 14th instant re-establishing without previous notice the discriminating duties which were suspended by the agreement of 13th February, 1884.

Only thus it is accounted for that this agreement has been in force during more than two years and a half without the President thinking himself obliged to take such a measure, a lapse of time which if in any case it had great value and significance increases in force in presence of the literal text of the paragraph 4228 of the Statutes of the United States which your Excellency was pleased to mention in his yesterday's note.

There is no room for supposing that the proclamation of President Arthur was worded in a sense different from that constantly given by His Majesty's Government because as it results from its reading, in the agreement it is said *productos* and *procedencias* from the United States, which phrase is not equivalent to that of *productos* or *procedencias*, which is now employed. And this is accounted for because the essence of the agreement such as President Arthur understood it, consisted in that the products and articles proceeding from the United States should not pay in the islands of Cuba and Porto Rico any discriminating duty in comparison with the Spanish flag, which is what I have had the honor of holding, which the Spanish Government offered, and which in my last propositions I have formulated in a clear and express manner and leaving to the Government of the United States the right of indicating the cases when the duty levied on American vessels may be termed discriminating, the most effectual guarantee which could be established.

Thus, and only thus, it is accounted for that the whole of our discussion has been based on the equality of flags, and not on the class of duties which either one or the other merchandise should have to pay. Such an interpretation is contrary, not only to the text of the agreement, but to that of the proclamation of President Arthur, and the Spanish Government cannot admit that during two years and seven months, and America having as representatives two diplomats such as your Excellency and your predecessor, so simple a question should have been discussed to give rise at last to so unforeseen a measure as that of President Cleveland.

This being stated and the absolute good faith with which the Spanish Government has discussed this question being affirmed, it is my duty to answer the remarks which your excellency is pleased to make to me, by saying first of all, that the Spanish Government cannot enter into the negotiation such as your excellency proposes, and which would be equivalent to a new agreement, under the pressure of the proclamation of 14th instant which places the mercantile relations of the Antilles with the United States in a truly exceptional position. If that pressure disappears, and if the President's proclamation which is to begin to be in force on the 25th October, is extended up to the same day of the month of November, the Spanish Government will be disposed to discuss within the faculties given to it by law a new agreement with the United States of North America, in which satisfaction being given to the claims embraced in points I and II, marked by your excellency, analogous privileges may be granted to Spain in relation with the exportation of her products.

The interests of both countries would thus remain attended to and the natural dignity of both Governments satisfied, being able to discuss the new agreement under a footing of equality and without the pressure imposed to-day on both countries by circumstances.

Your excellency will please advise me whether you are authorized for that negotiation, and whether the Government of the United States, acceding to the reasons which I have had the occasion to state to you, is disposed to the extension of one month which I have just suggested to you, in which case we could proceed to the immediate discussion of the bases of the agreement.

I avail myself, &c.,

S. MORET.

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No. 410.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

MADRID. (Received October 23, 1886.)

Mr. Curry asks to be informed whether Mr. Bayard's telegram (of 22d) means that he will accept the three propositions offered by the Government of Spain if they are made to include the case of cargoes from foreign countries arriving at the ports of Cuba and Porto Rico in vessels of the United States.

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No. 411.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 23, 1886—2.15 p. m.

Mr. Bayard informs Mr. Curry that if the case of cargoes from any foreign country arriving at ports of Cuba and Porto Rico in American vessels is inserted in the three propositions made by Spain which his telegram of the 21st instant reports, he has his authority to say to the Spanish Government that the President, after receiving notice of Spain's enforcement of that agreement in Cuba and Porto Rico, will proclaim a suspension of the discrimination now to be enforced.

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No. 412.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 25, 1886—2.15 p. m.

Mr. Bayard informs Mr. Curry that a proposition to equalize absolutely the carrying flags of the United States and Spain in the Spanish West Indies, no discrimination being made as regards the origin of the cargo or the port of shipment thereof, has been laid before him by the minister of Spain at Washington, who has been instructed by his Government to that end; that a memorandum of such an agreement has been given to Mr. Muruaga, and that a telegram has been sent by the latter to his Government asking for authority to sign the same.



No. 413.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

(Received October 26—11.20 p. m.)

Mr. Curry informs Mr. Bayard, in reply to his telegram respecting the case of cargoes from foreign countries arriving in American vessels at the ports of Cuba and Porto Rico, that he is authorized by the Spanish Government to state that the negotiation is considered by it as concluded on the basis of the three propositions made by it, and on the understanding that the wording of the second shall be in accordance with the terms of the text which the minister of Spain at Washington and the Secretary of State are to agree upon, inasmuch as the difficulty which Mr. Bayard's telegram raises is settled by the terms of this text.

No. 414.

*Mr. Curry to Mr. Bayard.*

No. 138.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 26, 1886.* (Received November 9.)

SIR: In continuation of the history of the agreement of February 13, 1884, I inclose a note of the minister of state, in the original text and a translation, together with my proposition for a new agreement. It will be observed that I was seeking to get rid of the present agreement, unquestionably ambiguous in its phraseology, and of the complications which render it partially nugatory so far as benefit to the United States is concerned, and a hindrance to a wider and more satisfactory engagement. The trade in American vessels between foreign ports and the ports of Cuba and Porto Rico was omitted to avoid troublesome demands by foreign Governments, and because this feature of our commerce had not been specially emphasized in recent instructions.

Nothing has come of the propositions, as the revocation of the proclamation of February 14, 1884, has given a new phase to the whole discussion.

I have, &amp;c.,

J. L. M. CURRY.

[Inclosure 1 in No. 138.—Translation.]

*Mr. Moret to Mr. Curry.*MADRID, *October 17, 1886.*

MY DEAR SIR: I have the honor to answer the notes which your Excellency has been pleased to send to me under date of 4th and 14th instant, and to memorandum of 5th, hoping that the answer which I propose to submit to your Excellency's consideration will draw us in a definitive manner to the loyal solution of the present disputes, which, in spite of our mutual efforts, impede the mercantile relations of Spain with the United States of North America.

To that effect I begin by accepting without reserve of any kind the principles repeatedly affirmed by your Excellency in the notes already referred to and proclaimed by your predecessor, Mr. Foster. I think with your Excellency "that there is no room for differences of any kind in the agreement of 1884 between the flags of Spain and the United States, so far as the commerce between the North American States and

Spanish Antilles is concerned." I agree likewise that the suspension of all discrimination flag duty necessarily implies that the American flag be treated exactly as the Spanish flag in the ports of Cuba and Porto Rico; and for me an inevitable consequence of said agreement is that if a kind of goods shipped in the ports of the United States were admitted under the third column of the tariff because it was carried under Spanish flag, it would have to be received in the same way when it comes under the American flag. Hence, I affirm in the most emphatic manner that the Government of the United States, as well as that of His Majesty the King, concur in one identical point of view in affirming, without any reference as yet to any kind of merchandise, that the principle on which the agreement of 13 February, 1884, is founded, is that of a most absolute equality of flags, so that, as your Excellency affirms in his note of 4th, "the American flag will be subject precisely to the same conditions with the Spanish flag."

With these preliminaries it is unnecessary for me to say, although I do it with a special pleasure because your Excellency suggests it to me, that in all our conversations, as well as in every document we have exchanged since your Excellency has been accredited near the Court of Spain, the same spirit has dominated and they have tended to obtain that the most absolute equality preside over the mercantile relations of the United States with the Spanish Antilles, and since your Excellency thinks that my testimony may corroborate in some way that of your Excellency, I offer it to you, so full and conclusive as your Excellency may wish it, to confirm everything set forth by you.

This being stated, I have to ask in my turn that your Excellency will state in like manner that on my part, and on every occasion we have discussed this point, your Excellency has found in me and in the Spanish Government the most absolute sincerity and the most lively desire to do justice to its claims, to interpret the agreement of 1884 in the most frank and loyal manner, and to remove every cause of displeasure or of irritation to the Government of the United States.

This testimony of your Excellency will be sufficient to answer the suppositions, extremely unjust, of which the last action of the Spanish Government has been the object in the United States.

With these antecedents it seems difficult to account for the reasons of the present conflict, which has reached its climax in the proclamation which, under date of 14th October, the President of the United States has been pleased to publish, establishing after the 25th instant the differential duty of 10 per cent. on the Spanish merchandise, a duty which had been suspended on 1st of March, 1884, but the explanation may be found, according to my opinion, in the course and the shape which the discussions have taken about the application of the agreement of that year, because the fact is that at first sight there is no difference between both Governments.

Your Excellency asked in his notes of May last, and the ministry of ultramar understood so on issuing the royal order of 22d June, the origin of the present controversy, the absolute equality of flags, and the Spanish Government offered it with the sincere intention of giving it without on my part seeing in all that discussion any concrete point which might give rise to any disagreement. But it happened that on applying the royal order of 22d June, the Cuban authorities, and on giving the constant interpretation that the Spanish Government has been giving to the tariff, the American merchants, saw that in the practice a differential duty resulted for their flag, and on this fact they based their complaints and protests. I must confess to your Excellency that if in that moment the claims had been formulated in the terms in which they now appear before the Spanish Government, the inequality denounced by your Excellency would not have been maintained for a single day, and the critical situation which we now are passing through would never have existed; but your Excellency will do the Spanish Government the justice to acknowledge that the question has not been presented to it in the terms in which I am now examining it.

From the data which are placed before me, and especially from the complaints which the American shipowners have formulated before the President, Mr. Cleveland, and the Secretary of State, Mr. Bayard—complaints which have been reproduced and commented upon by the newspapers—it results that in the traffic between the United States and the Spanish Antilles there is a class of products to which a different item of the tariff is applied if they are carried under American or Spanish flag. We denominate those products as foreign ones; that is to say, not produced in the two countries, although they proceed from them; and the complaint consists in the supposition that when those products are shipped in the ports of the United States they are made to pay in those of Cuba and Porto Rico under the fourth column of the tariff if they are carried under American flag, and only under the third column if they arrive under Spanish flag. Such is the concrete and only fact alleged to denounce the existence of differential duties between the two flags, and to base the resolution taken by President Cleveland re-establishing the differential duty of 10 per cent. upon the merchandise of the Spanish Antilles.

This being the fact, I do not hesitate on my part in affirming that the complaint would be well founded, and that if in that way the tariff were applied and if in the Cuba and Porto Rico custom-houses it were granted to the foreign products to the United States which are carried under Spanish flag a treatment different from that which is granted to equal products when they are carried under the American flag, there would have been an erroneous interpretation of the articles 1 and 2 of the agreement of 1884. And this stated, I need not add that the Spanish Government is and has always been disposed to immediately correct that inequality and to modify a state of things which it considers contrary to right. But it behoves me also, after expressing myself with this frankness, to put in doubt the legal exactness of the facts.

It is not declared in our legislation and in all the antecedents which are in this ministry; there is no order of any kind which establishes that difference. It is possible that in some custom-houses of the Antilles and in some concrete cases some isolated orders may have been given and some authorities may have cleared some cargoes with so different a criterion; but the Government cannot make itself responsible for it, and if a complaint would have been formulated to it in precise terms it would have been attended to at once.

But let it be allowed to me to say that the discussion has not borne upon these points nor the true claim of the United States been made clear until your Excellency, with the great clearness of language which characterizes all your writings, has set it forth in the notes which I answer.

Before receiving them, the ministry of ultramar, with the data which it had before it, must have thought that the question indicated was not concerned; but that the American merchants and ship-owners understood that all the merchandise by the mere fact of having been shipped in American ports and to be carried to those of Cuba and Porto Rico under American flag had a right to the treatment of the third column, which was not now a question of equalization but of interpretation of the agreement of 1884 in most important points, and regarding which the department of ultramar has always had a uniform and fixed standard, and that has been, in my opinion, the cause of this misunderstanding which has risen, and which I am pleased in hoping will disappear after the explanations which I have the honor to submit to your Excellency. Because from the moment in which I have read your notes and have examined them in union with my worthy colleague, the minister of ultramar, both of us have seen that your Excellency, transferring the question from the narrow ground of the decisions of the customs, carried it to the more solid and safe ground of the principles which underlie the agreement of 1884, the terms of the question have been re-established and the solution cannot be doubtful, because the application of principles mutually accepted is never so.

It is needless, Mr. Minister, that after these considerations I should enter into a discussion of the royal order of 22 June, nor that I expatiate on any kind of reasonings respecting the interpretations which that legal order may have received on the part of the authorities of Cuba and Porto Rico. This question, as your Excellency states, is only incidental; above it, and above all those of like kind, is the fundamental principle of the agreement, eloquently set forth by your Excellency and acknowledged by me from the first moment with the same preciseness with which I acknowledge it today. What is of true moment to both nations, and what your Excellency wishes, is that said principle may have its full and immediate application, and that the moment may arrive when, every motive of disagreement having disappeared, those words which I had the honor to address to your Excellency on 18 May, and which you do me the honor to recall in your memorandum of 5th October, may be a real and effective fact; in which words I offered to your Excellency that the minister of ultramar would issue the necessary orders for the disappearance of every difference which now may exist between the American and Spanish vessels in the ports of the Antilles, your Excellency being able to inform your Government that any kind of differential duties such as those which your Excellency indicates shall be corrected without delay.

The proclamation of the President of the United States re-establishing the differential duties would have made difficult for me to give these frank declarations, if the explanation which your Excellency was pleased to give me in your note of 14th, and which verbally you have repeated to me in our interview of the 15th, had not given me the assurance that the conduct of the President has been the necessary consequence of legislation, according to which, from the moment in which it is shown that there are in any nation discriminating duties applied to the vessels of the United States or to their cargoes, the President is obliged to re-establish the discriminating duties of 10 per cent. For this same reason, and as a consequence of what your Excellency was pleased to state to me, the Spanish Government invokes that same legislation to claim the immediate suspension of that measure, because the case mentioned in the statute has arrived (volume 23, page 835), where it is said "that so soon as the products and articles proceeding from the United States which may be imported into the islands of Cuba and Porto Rico are exempted from differential customs duties, the articles and products which may be imported from Cuba and Porto Rico under the Spanish flag



shall be exempted from the payment of the 10 per cent.," a declaration made by President Arthur on the 14th February, 1884.

Spain finds herself, therefore, under the conditions prescribed by the laws of the United States, and in consequence I am authorized to declare to your Excellency that the equality of flags, Spanish and American, remains scrupulously respected, and that in the ports of Cuba and Porto Rico the merchandise shipped in the United States which arrives under Spanish flag shall not be granted any privilege which is not applied equally to the cargoes which proceed from the same place under the American flag.

And in order to make the facts more clear, and to avoid every interpretation in the concrete point which has produced so lamentable a disagreement, I submit to your Excellency the propriety of fixing the interpretation of the agreement of 13th September, 1884, in the following terms:

(1) That all merchandise and products originating in the United States, shipped in American ports, and which go direct to those of Cuba and Porto Rico, whether under the Spanish flag or American flag, shall pay under the third column of the tariff; and

(2) That foreign products in the United States which are shipped in North American ports and come to those of Cuba and Porto Rico shall pay the same under the American flag as under the Spanish flag, under the fourth column of the tariff.

I hope, Mr. Minister, that these declarations which I had the honor to verbally make to your Excellency yesterday, and which demonstrate the sincerity with which Spain desires to fulfill her engagements, will completely remove the difficulties which have arisen and re-establish the cordial relations which with so much sincerity and firm intention we have endeavored to consolidate. If such is the case, I have no doubt but that President Cleveland will cancel the proclamation published on the 14th, and maintain the suspension of differential duties, as has been done up to the present, in the mutual benefit of the commerce and intercourse of both nations.

I avail myself, &c.,

S. MORET.

[Inclosure 2 in No. 138.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,  
Madrid, October 19, 1886.

SIR: Your note of 17th, received yesterday, I have read with great interest and with a predisposition to see matters as you see them, for I must bear cheerful and grateful testimony to the fact that in all our personal and official intercourse I have found you actuated by the loftiest principles of right and justice and most anxious to do what your sense of right and loyalty to Spain would allow in meeting the wishes of the Government of the United States.

The two propositions contained in your note are identical with those kindly furnished by your Excellency on the 16th instant and with the important exception of the omission of the item equalizing tonnage fees. From my point of view the propositions are not fairly susceptible of the construction which your Excellency gives and on which, *in arguendo*, you claim that Spain would thereby place herself within the conditions which authorized the President to suspend the collection of the 10 per cent. retaliatory duty. The law of the United States, obligatory upon the President (Revised Statutes of the United States, p. 819, sec. 4228) gives him the discretionary power to suspend or discontinue the foreign discriminating duties of tonnage and of impost within the United States, so far as respects the vessels of such foreign nation and the produce, manufactures, or merchandise imported into the United States from such foreign nation when the Government of any such foreign nation shall cease to impose or levy in its ports discriminating duties of tonnage or imposts upon vessels belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country. So long as such reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall continue the suspension shall continue "*and no longer*."

The object of the United States, in assenting to the agreement of 13th of February, 1884, was to obtain the suppression of the differential flag duties which existed in the ports of the Spanish Antilles against American vessels and their cargoes. The proclamation of President Arthur, to which your excellency refers, was based upon the supposition that vessels of the United States and their cargoes, whether those cargoes were of products of the United States or of foreign products, in the trade

between the ports of the United States and the ports of Cuba and Porto Rico, were to be placed on the basis of absolute equality with Spanish vessels and their cargoes in the same trade and to have equally applied to the vessels of both nations and their cargoes "the duties of the third column of the customs tariffs of Cuba and Porto Rico." When it transpired, beyond a doubt, that foreign goods or products, transhipped in vessels of the United States, in ports of the United States, for Cuba and Porto Rico, were not allowed the benefit of the third column for which the Government of the United States had paid a full equivalent price or benefit, the "reciprocal exemption," which the statute required as a condition precedent to executive suspension, did not exist, and the President, having no alternative, was constrained reluctantly to revoke the proclamation of 14th February, 1884. While the discrimination exists there is no option resting with the President.

The proposals of your Excellency, in your memorandum of the 12th, and in your note of the 17th, embody a discrimination against produce or manufactures or merchandise not exclusively American, and practically prohibit competition by American vessels with Spanish in Cuban trade as well as the intermediate use of American ports.

In the note of 17th instant, if I rightly comprehend the meaning, your Excellency says that "the principle" of the agreement of February, 1884, "is that of a most absolute equality of flags," and that, if at the time of the application of the royal order of 22d June, the claims of the United States had been formulated as they now appear before the Spanish Government, the "inequality would not have been maintained for a single day." Your Excellency further says, if I do not misinterpret the language, that if foreign goods, transported in American bottoms from American to Antilean ports, pay under fourth column, while such goods, carried in Spanish vessels, would pay only under third column, such a discrimination is a differential duty and, therefore, an erroneous interpretation of Articles I and II of the agreement of 1884.

No good result can come of a discussion as to the origin of the unfortunate misapprehension. When both Governments are actuated alike by high considerations of honor and loyalty to compacts, it is better to "let bygones be bygones," and to proceed either to the issuance of new orders or to the framing of a new agreement. In the light of existing facts and opinions the latter course seems preferable and easily attainable. I suggest therefore, that with a brief and explanatory preamble we can agree on the following terms:

I. The duties of the third column of the customs tariffs of Cuba and Porto Rico shall be applied to produce, manufactures, or merchandise imported into said islands from ports of the United States in vessels belonging to citizens of the United States. Any change hereafter made in the customs tariffs of said islands shall not be construed so as to create any flag duty discriminating against the flag of the United States.

II. All tonnage fees or dues imposed or levied in the ports of the islands of Cuba and Porto Rico shall be the same on Spanish vessels and vessels belonging to citizens of the United States.

III. The Government of the United States, in consideration of Articles I and II of this agreement, containing concessions by the Government of Spain, shall remove the extra duty of 10 per centum ad valorem which it has imposed on the products, manufactures, or merchandise proceeding from Cuba and Porto Rico under the Spanish flag, and shall equalize the tonnage dues, so that, in that respect, the vessels of Spain and of the United States shall, in the trade between the United States and the islands of Cuba and Porto Rico, stand on the same footing.

If your Excellency, acting in the name of your Government, can authorize me to cable these propositions to the Government of the United States, I am persuaded that the two nations can go on with increasing good will and prosperity.

I gladly avail myself, &c.,

J. L. M. CURRY.

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No. 415.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

WASHINGTON, October 27, 1886.

Mr. Bayard informs Mr. Curry of the signing of the agreement and the issue of the President's proclamation.

No. 416.

*Mr. Curry to Mr. Bayard.*

No. 140.]

LEGATION OF THE UNITED STATES,

*October 27, 1886. (Received November 9.)*

SIR: Continuing the history of the negotiations connected with the agreement of 13 February, 1884, I have the honor to state that, after receiving your telegram of 22d instant, several conferences were held with the minister of state, in which, for the purpose of disabusing his mind of some mistaken impressions and facilitating negotiations, I reviewed at some length and with entire frankness the failure of the Spanish to observe the agreement as understood by the United States, the vacillation in reference to the royal order of 22 June, 1886, and the irritations which necessarily resulted from the delays interposed to the fulfillment of several explicit promises. In these discussions the minister of state conceded that the proper interpretation of the agreement required the suppression of any flag discrimination as applied to foreign goods carried under the American flag from American ports to the ports of Cuba and Porto Rico. Heretofore the minister of ultramar would not concur in that interpretation, but the present minister had yielded to the arguments as presented on the American side of the question. \* \* \*

Actuated by what I believe to have been a sincere desire to promote the most amicable relations between the two countries, the minister of state, in our conference on the 25th, agreed to yield the point in reference to goods from any foreign country, and on the night of that day sent me a note covering his assent. Yesterday I was waiting a formulated statement in briefer terms for transmission to the Department when I received your telegram stating that Mr. Muruaga, under the instruction of his Government, had submitted a proposition to absolutely equalize the flags of the two countries in the Spanish West Indies, no discrimination being made in regard to the origin of the cargo or the point of shipment thereof.

The minister invited me to an interview at the foreign office in the afternoon, read to me several telegrams from the Spanish minister, and gave me a copy of the memorandum of agreement. \* \* \*

Last night he sent me a note announcing, in his opinion, the termination of the negotiation, copies of which, in Spanish and in English, are herein inclosed. He substituted the text of the agreement, furnished from Washington, in lieu of proposition II as heretofore cabled, and as covering unmistakably the requirement in your telegram. Last night I sent you a dispatch by cable, as he authorized. \* \* \*

It will be observed that the closing paragraph of the note of the minister of 26th, speaks of a protocol to be signed, embodying the conclusions reached, and a morning journal, evidently with official inspiration, speaks also of a protocol to be formally signed when the text of the propositions shall have received approval at Washington. \* \* \*

I have, &c.,

J. L. M. CURRY.

[Inclosure in No. 140.—Translation.]

MINISTRY OF STATE,

*Madrid, October 26, 1886.*

EXCELLENCY: In your note of yesterday your Excellency is pleased to inform me of the reception of a telegram from Washington, as follows:

"If the three propositions of the Spanish Government contained in your telegram include the cargoes carried in American ships, you are authorized to assure that



the President will publish a proclamation suspending all discriminating duty as soon as he receives that notification."

Since receiving your note I have received from His Majesty's minister at Washington the telegram, a copy of which is inclosed.

The text of the memorandum referred to in the telegram, and which has been agreed upon in Washington by the Spanish minister and Mr. Bayard, solves the point which your excellency indicated to me in your note of the 25th, the only one upon which there was not yet any agreement, so that as they have been accepted by the Spanish Government, the three propositions which I had the honor to formulate in my note of the 22d instant are complete.

Consequently the Spanish Government considers the negotiation terminated on the basis of the propositions referred to, it being understood that the second of them shall be worded in the terms of the text agreed upon in Washington between the Spanish minister and Secretary Bayard.

I have given this information to our representative at Washington, that he may confirm the declarations contained in this note, and I am at the disposition of your Excellency for the signature of the corresponding protocol in which our agreement may be drawn up.

I avail, &c.,

S. MORET.

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[Inclosure 2 in No. 140.—Telegram.—Translation.]

*The minister of Spain to the minister of state.*

WASHINGTON, October —, 1886.

TEXT OF MEMORANDUM.

It is expressly understood that in the islands of Cuba and Porto Rico there shall be applied from this date absolute equality in impost and tonnage duties to the products of and articles proceeding from the United States and any other foreign country in vessels belonging to citizens of the United States, and that there shall be collected no other nor greater imposts or tonnage duties from the said ships and their cargoes than those levied on Spanish ships and their cargoes under the same circumstances.

Under the conditions aforesaid the President of the Republic will issue his proclamation declaring that the collection of foreign differential tonnage duties and imposts in the United States shall cease and that they shall continue suspended as regards Spanish vessels and products, manufactured or mercantile, imported in them into the United States, whether from Spain, her colonies above mentioned, or from any other foreign country.

I beg your Excellency, if you approve, to notify me of your acceptance in order that the proper orders may be issued.

MURUAGA.

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No. 417.

*Mr. Porter to Mr. Curry.*

No. 133.]

DEPARTMENT OF STATE,  
Washington, October 28, 1886.

SIR: I inclose, with reference to the telegram sent you yesterday, copies of the proclamation of the President dated the 27th instant, suspending the discriminating customs duties on the products of and articles proceeding under the Spanish flag from Cuba and Porto Rico or any other foreign country. Attached to the copies inclosed you will find a memorandum of agreement on the subject, signed on the part of both Governments October 27, 1886.

I am, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

[Inclosure 1 in No. 133.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

## A PROCLAMATION.

Whereas satisfactory proof has been given to me by the Government of Spain that no discriminating duties of tonnage or imposts are imposed or levied in the islands of Cuba and Porto Rico upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country;

And whereas notification of such abolition of discriminating duties of tonnage and imposts as aforesaid has been given to me by a memorandum of agreement signed this day in the city of Washington between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Queen Regent of Spain accredited to the Government of the United States of America:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section 4228 of the Revised Statutes of the United States, do hereby declare and proclaim that from and after the date of this my proclamation, being also the date of the notification received as aforesaid, the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued so far as respects the vessels of Spain and the produce, manufactures, or merchandise imported in said vessels into the United States from the islands of Cuba and Porto Rico, or from any other foreign country; such suspension to continue as long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said islands of Cuba and Porto Rico, and no longer.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 27th day of October, in the year of Our Lord 1886, and of the Independence of the United States the 111th.

[SEAL.]

GROVER CLEVELAND.

By the President:

T. F. BAYARD,

*Secretary of State.*

[Inclosure 2 in No. 133.]

Memorandum of agreement between the Government of the United States of America and the Government of Spain for the reciprocal and complete suspension of all discriminating duties of tonnage or imposts in the United States and in the islands of Cuba and Porto Rico upon vessels of the respective countries and their cargoes.

First. It is positively understood that from this date an absolute equalization of tonnage and impost duties will at once be applied to the products of and articles proceeding from the United States or from any foreign country in vessels owned by citizens of the United States to the islands of Cuba and Porto Rico, and that no higher or other impost or tonnage duties will be levied upon such vessels and the merchandise carried in them as aforesaid than are imposed upon Spanish vessels and their cargoes under the same circumstances.

Under the above conditions the President of the United States will at once issue his proclamation declaring that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued so far as respects Spanish vessels and the produce, manufactures, or merchandise imported in them into the United States from Spain or her possessions aforesaid, or from any foreign country.

This memorandum of agreement is offered by the Government of Spain and accepted by the Government of the United States as a full and satisfactory notification of the facts above recited.

Secondly. The United States minister at Madrid will be authorized to negotiate with the minister for foreign affairs, either by an agreement or treaty, so as to place the commercial relations between the United States and Spain on a permanent footing, advantageous to both countries.

In witness whereof the undersigned, in behalf of the Governments of the United States and of Spain, respectively, have hereunto set their hands and seals.

Done at Washington this 27th day of October, A. D. 1886.

T. F. BAYARD. [L. s.]  
E. DE MURUAGA. [L. s.]

No. 418.

*Mr. Curry to Mr. Bayard.*

No. 145.]

LEGATION OF UNITED STATES,  
*Madrid, November 3, 1886. (Received November 15.)*

SIR: I have the honor to inclose copies, in Spanish and in English, of a letter of the minister of state and also of the reply, somewhat elaborate, which I feel it incumbent on the legation to make. As the correspondence for more than two years shows an extremely variant interpretation of the agreement of 13th February, 1884, and the recent agreement contemplates new negotiations, it seemed wise to present the whole question anew in the light of verifiable historical facts. The vindication of the Government of the United States was the more necessary in view of the ill informed and adverse criticisms of Spanish and English journals. The discussion of the old controversy about "*les productos y procedencias*" was purposely avoided as a fruitless logomachy. In the present status of the relations between the United States and Spain there is no occasion for a war of words, for even the remotest approach to that protracted and furious contest which the difference of a single diphthong excited between the Homouseans and the Homoouseans.

I have, &amp;c.,

J. L. M. CURRY.

[Inclosure 1 in No. 145.—Translation.]

*Señor Moret to Mr. Curry.*

PALACE, October 20, 1886.

EXCELLENCY: Your note of yesterday, which I have just received, is the answer to that which under date of 17th I had the honor to address to your Excellency, in which in my turn I answered the notes dated the 4th and 14th, and the memorandum dated 5th, which your Excellency had been pleased to address to me. In the above correspondence the questions relating to the interpretation of the agreement of 1884 and equalization of flags were exclusively dealt with. That relating to the tonnage fees was treated by your Excellency in another special note, dated 11th instant, to which I had the pleasure of answering on yesterday. I think, as your Excellency does, that for the solution of the present difficulty it is not of great interest to discuss the past, but the Spanish Government will always wish to make it clear that it does not believe that it has given, on its part, any occasion for the measure taken by the Government of the United States on the 14th instant re-establishing *without any previous notice* the discriminating duties which were suspended by the agreement of 13th February, 1884.

Only thus is the fact accounted for that this agreement has been in force during more than two years and a half, without the literal text of the paragraph 4228 of the Statutes of the United States, which your Excellency is pleased to quote in your note of yesterday, having prevented the continuation of the agreement. And this is accounted for, because the essence of the agreement, such as it was understood, not only in the agreement, but also in the proclamation of 14th of February, 1884, consisted in that the products and articles proceeding from the United States should not pay in the islands of Cuba and Porto Rico *any discriminating duty in comparison with the Spanish flag*, which is what I had the honor of holding, what the Spanish Government has offered, and what in my last propositions, I have reiterated in a clear and explicit manner, even to the point of leaving to the Government of the United States the right of pointing out the cases in which the duty levied on the United States flag can be termed discriminating, the most effectual guarantee which could be established.

Thus and only thus it is also in my opinion explained that the whole of our discussion has been based on the equality of flags, and not on the class of duties which the one or the other merchandise would have to pay. The Spanish Government cannot therefore admit that during two years and seven months, while America has been represented by two diplomats so distinguished as your Excellency and your predecessor,



so simple a question has been discussed, in order to present the discussion as terminated with so radical a measure as the proclamation of 14th instant.

This being stated and the absolute good faith with which the Spanish Government has discussed this question being thus affirmed, it is my duty to answer the remarks which your Excellency is pleased to make to me, by saying, first of all, that the Spanish Government cannot enter into the negotiation such as your Excellency proposes, which would be equivalent to a new agreement, under the pressure of the proclamation of the 14th, which places the mercantile relations of the Antilles with the United States in a truly exceptional position. If this pressure disappears, and if the proclamation of the President which is to go into effect on the 25th October is extended to the same day of the month of November, the Spanish Government will be disposed to discuss, within the powers given to it by the laws, a new agreement with the United States of North America, in which on giving satisfaction to the claims embraced in points I and II, marked by your Excellency, analogous advantages be granted to Spain in relation to the exportation of her products.

The interests of both countries will thus be attended to and the natural requirements of both Governments satisfied. It will be possible to discuss the same agreement on a footing of equality and without the pressure which circumstances impose to-day on the two countries.

Your Excellency will be good enough to inform me whether you are authorized to undertake this negotiation, and whether the United States Government, acceding to the arguments which I have had the honor to set forth, is disposed to the extension which I have just mentioned, in which case we could proceed to the immediate discussion of the bases of the agreement.

I willingly avail, &c.,

S. MORET.

[Inclosure 2 in No. 145.]

Mr. Curry to Señor Moret.

LEGATION OF THE UNITED STATES,  
Madrid, October 29, 1886.

EXCELLENCY: I have the honor to acknowledge your note of the 20th instant, and am compelled to take issue both as to facts and inferences. Instead of considering *seriatim* the statements and arguments of your excellency, I prefer to give a brief history of the agreement of 13th February, 1884, and to add some observations for the purpose of placing the Government and the President of the United States in a proper light.

I shall use such data as are furnished by the archives of the ministry of state and of this legation. The recent agreement does not supersede the necessity of this vindication. On the contrary, it is well for this review, vindicating history and removing misapprehension, to be made now, so that in future and desirable negotiations there shall not be encountered on the threshold suspicion and distrust, so fatal to frankness and to speedy harmonious results.

The agreement of 1884 makes a curious chapter in diplomatic history. Conceding as we must, sincerity of purpose, ingenuousness of statement, and loyalty to obligations to both parties, there is presented a persistency of misapprehension to be paralleled only in comic dramas of mistaken identity.

At the time of the conclusion of the agreement there was, and had long existed, a complex system of retaliatory duties between Spain and the United States. The wise and enterprising of both countries were restive under restrictions and usages which partook more of mediæval policy than of the enlightened spirit of the nineteenth century. Efforts were constantly being made for some reciprocal commercial interchanges which should enlarge trade and place it on a more liberal and profitable footing.

Pending negotiations covering the whole field, the agreement of February 13, 1884, was adopted as a *modus vivendi* to prevent rupture of trade relations and crippling of many important interests.

The object of the agreement was to terminate all discriminations affecting the commerce between the United States and the Spanish West Indies. The main intent and end was to suppress or abolish the discriminations which adverse legislation had established.

A brief analysis will disclose two objects and two covenants. First, the suppression of differential flag duties for the benefit of American commerce and a corresponding covenant on the part of Spain to effect the equality. Secondly, the discontinuance of a retaliatory or discriminating tax for the benefit of Spanish commerce and a corresponding covenant on the part of the United States to suspend the tax.

Immediately on receipt of the text of the agreement, signed the preceding day, the President of the United States issued his proclamation fulfilling perfectly the covenant of the United States by suspending the collection of the 10 per cent. additional ad valorem tax, which had been previously levied and collected on the produce, manufactures, and merchandise of Cuba and Porto Rico. The notice which the Spanish Government gave that the agreement would be put into effect on March 1, 1884, was accepted as sufficient proof of the suppression by Spain of the differential flag duty as covenanted, and the response was prompt and complete. To this day in all the correspondence which this agreement has elicited, not a complaint has been uttered against the United States for a failure to execute her solemn stipulation. Not an intimation has been whispered that the United States Government has not in full est measure complied with her engagement.

Very soon after the expiration of the time for putting the agreement into effect it came to the knowledge of the United States that the Spanish Government was not executing it as was designed and understood by the United States. The matter was at once brought to the attention of the Government at Madrid, and continuously and persistently this legation, in obedience to positive and earnest instructions from Washington, has urged a different interpretation and execution of the compact.

The discrimination against products of the United States carried in American vessels from American ports to the ports of Cuba and Porto Rico was removed by Spain, and so far as that particular trade is concerned, the Government of the United States has made no complaint and has had no contention with Spain. Foreign goods shipped in American vessels from American ports to Cuba and Porto Rico have been discriminated against and compelled to pay under the fourth column, while the same class of goods carried in Spanish vessels pay the lighter duty of the third column. This, as your Excellency now frankly concedes, is a manifest discrimination against the American flag, the imposition of a differential duty and therefore a palpable violation of Article II of the agreement.

This phase of the question was brought prominently to the notice of His Majesty's Government in August, 1884, accompanied by the declaration that if the United States had understood that the agreement would have been so construed and observed by Spain it never would have been signed or put into execution. It appears that the minister of state acquiesced in the most just and reasonable claim of the United States for equalization of flags.

Your Excellency will bear testimony that in frequent written applications and more frequent personal interviews, I presented the claim of the United States in language which your Excellency, in one of your notes, has done me the honor to say was unmistakably clear. In June last a royal order recited that "the minister of the United States had complained respecting the manner in which the agreement was enforced in Cuba, alleging that Article I gives the right to the American flag to be placed on an equality with the Spanish flag, and that a differential duty is maintained respecting foreign goods transhipped in American ports, and in view of his arguments and of other antecedents, and with the object of demonstrating the good intentions of Spain towards the United States and her good faith in enforcing treaties, it was decreed that the American flag, in the direct trade with the islands of Cuba and Porto Rico, should be put on a complete equality with the Spanish flag in the transportation of products proceeding from the United States."

This long delayed decision, reciting with particularity the complaints of the American minister, was hailed with satisfaction as a tardy but proper recognition of the rightfulness of our contention. The Government and people of the United States received the expression of kindness in the equalization of the flags as the harbingers and the substantial guarantee of concord and amity. Suddenly and with a shock of surprise and astonishment, from which we have not recovered, we were awakened from our pleasant illusion by a revocation of the royal order, or such an explanation of it as made it wholly irresponsible to the complaints recited as its cause, and in no sense effective of the equalization it proposed to make.

When the Government of the United States received the information—full, final, authoritative—that the differential flag duties were *not* suppressed as the agreement enjoined, and that the discrimination, for the doing away of which an ample equivalent had been paid, was to be persevered in by the Government of Spain, the President was necessitated by the law to which he is subject to re-enforce the collection of the additional 10 per cent. tax. The authority to suspend on which President Arthur, relying on the good faith of Spain, acted, was derived solely from section 4228 of the Revised Statutes. By this law the President was empowered to suspend the 10 per cent. discriminating duties imposed upon the products and vessels of the Spanish Antilles upon the express condition that satisfactory proof should be given that no discriminating duties were levied upon the vessels of the United States or their cargoes.

The suspension is legal, is permissible, so long as the reciprocal exemption of vessels of the United States and their cargoes continues, "and no longer." It was the

intention of the negotiators that the arrangement should terminate all discriminations affecting trade between the United States and the Spanish Antilles. Article I explicitly declares that the arrangement made "implies [on the part of Spain] the suppression of the differential flag duty," and Article II stipulates on the part of the United States the removal of the only discrimination imposed by the United States, to wit, the 10 per cent. ad valorem additional duty. The one was designed to compensate for the other, and by the law above referred to the suspension of the additional duty is conditioned upon the total removal by the other party of all discrimination "upon the produce, manufactures, or merchandise imported in vessels of the United States from the United States or from any foreign country."

I may be pardoned for saying that the re-establishment of the discriminating duty by President Cleveland was not "radical," and ought not to have been "unexpected" in the light of the records of the ministry of state. In August, 1884, Mr. Foster stated that if the interpretation of Article I, as enforced in Cuba, was to be maintained, it would become the duty of the President to annul the agreement. In my note of October 4 it was said that the action of Spain would restore the status antecedent to the agreement. When the whole history of the royal order of 22d June is borne in mind, the delay of the President can only be accounted for by his extreme reluctance to take any step which would seem, even remotely, to indicate a distrust of the willingness of Spain to observe a clear stipulation.

There is apparently some misconception of the functions and consequently some misapprehension of the powers of the President.

There is, or seems to be, a vague intimation that President Cleveland in revoking the proclamation of President Arthur was controlled by mere arbitrary will. As already made clear the President of the Republic has no authority, no power, as such, beyond what the law prescribes.

In the case under consideration he had no alternative but to do what the law enjoined. By virtue of his exalted position a President has no more right to nullify, modify, or violate a law than the humblest citizen of the Republic.

*Ita lex scripta est* is conclusive. Although Commander-in-Chief of the Army and Navy he stands before the law as every other of 60,000,000 of freemen.

The free institutions of the United States owe their existence and beneficence to the supremacy of law and the ready obedience to its sanctions. When a law says that retaliatory discriminations against other nations may be suspended while such nations grant reciprocal exemptions *and no longer*, it is imperative, and in a country where the Government is looked upon, not as the enemy but as the friend of freedom, this law and every other a healthy and universal public sentiment demands the execution of.

Your Excellency refers to the continuation of the suspension of the tax for two years and a half as an acquiescence in the Spanish construction, and is inconsistent with the proclamation of the 14th instant. I beg your excellency to recall the facts adduced as the impregnable demonstration that the United States has never, for a single day, assented to an interpretation which applied the fourth column to foreign goods carried under an American flag from American ports to the islands of Cuba and Porto Rico.

The refusal of Spain to equalize the flags of the two countries has been resisted by all the forms of diplomacy allowable between friendly nations. The proclamation of 14th instant was the employment of the last remaining expedient in the hands of the President. The Spanish Government had construed finally the compact of 13th February, 1884, and adversely to the well-known and vigorously repeated claim of the United States. So far as that agreement is concerned the door of negotiation was closed by the singular construction of the royal order declaring Spain's adherence, without variation, to the policy she had pursued since the signing of the agreement. The restoration of the discriminating tax was the inevitable sequence of unheeded protests by the United States, and if any blame attaches it does not lie upon my Government, or the representatives at this honored court. It seems not altogether just nor a logical consequence, that the patience and forbearance of the United States and the desire to show great and habitual respect for Spain, should now be alleged to her prejudice and be construed into an approval of what had incurred her unceasing opposition.

In so far as your excellency's statement that the proclamation of the 14th was a "pressure," may imply that it was purposed or designed to place Spain at a disadvantage in any negotiation, I shall have to content myself with a respectful but positive disclaimer. The action of the President, as I have in a previous note affirmed, was designed, in no sense, to be disrespectful or offensive to the Spanish Government. A simple, obvious, prescribed, known expedient cannot properly be viewed as a pressure producing inequality of situation. The United States simply declined to be any longer a party to an agreement which lacked the covenanted mutuality, or to continue to pay a price for a stipulated *quid pro quo* when that *quid pro quo* was withheld.



This rapid sketch has been prepared to vindicate a Government scrupulously observant of all its obligations.

In everything connected with the agreement of 13th February, 1884, the Government of the United States has done nothing which is not defensible on the highest principles of right and international courtesy. It is to be hoped that the recent agreement will be promotive of mutual good will and prosperity. In the contemplated early negotiations the Government of the United States has reason to felicitate both countries that Spain has committed her honor and interests to a statesman who regards the well being and honor of his own country as compatible and interwoven with the honor and well being of other peoples.

I avail, &c.

J. L. M. CURRY.

## CORRESPONDENCE WITH THE LEGATION OF SPAIN AT WASHINGTON.

No. 41<sup>o</sup>.

*Mr. Valera to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN IN WASHINGTON,  
*Washington, February 10, 1886. (Received February 13.)*

The undersigned, Minister Plenipotentiary, in compliance with the order of his Government, has the honor to remit to the honorable T. F. Bayard, for the information of the Government of the United States, the inclosed copy of the Official Gazette, of Madrid, in which is inserted the protocol\* concluded between Spain and Germany, by the mediation of His Holiness the Pope, Leo XIII, relative to the sovereignty of Spain in the archipelagoes of the Caroline and Pelew Islands, concluded at Rome the 17th of December of the last year.

The undersigned avails himself, &c.,

JUAN VALERA.

No. 42<sup>o</sup>.

*Mr. Bayard to Mr. Valera.*

DEPARTMENT OF STATE,  
*Washington, March 2, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 10th ultimo, and of its inclosure, a copy of the Official Gazette of Madrid, in which is inserted the protocol concluded between Spain and Germany, by the mediation of His Holiness, Pope Leo XIII, relative to the sovereignty of Spain in the archipelagoes of the Caroline and Pelew Islands, and signed at Rome, December 17, 1885.

It affords the Government of the United States much satisfaction to learn that the question of sovereignty over these islands has been amicably adjusted.

As your Government is aware, the citizens of the United States have been actively engaged in disseminating information among the inhabitants of that quarter, with a view to their prosperity; and it is not presumed that their treatment under the rule of Spain, which this arrange-

\* Published page 776, *supra*.

ment recognizes, and confirms as between Germany and Spain (and which has never been contested by the United States), will be any less favorable than that of Germans or other foreigners commorant therein  
Accept, &c.,

T. F. BAYARD.

No. 421.

*Mr. Valera to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,  
*Washington, March 9, 1886. (Received March 10.)*

The undersigned, Minister Plenipotentiary of Spain, has received the honorable Secretary of State's polite note of the 2d instant, and has the pleasure and the honor to return to him his warmest thanks on account of the satisfaction with which the United States Government views the amicable termination of the question concerning the sovereignty of the Caroline Islands. The undersigned also recognizes the fact that the sovereignty of Spain over those islands has never been disputed by this Republic, and he knows with what activity and friendliness many of its citizens are endeavoring to improve the condition of the inhabitants of the said islands by promoting not only their material interests, but also their intellectual cultivation.

He will consequently hasten to transmit to his Government the inquiry which the honorable Mr. Bayard is pleased to address to him on behalf of that of the United States, and he regrets that he is not authorized to make at once the pleasing reply which he hopes will hereafter be made, and which, if he may be allowed to express his own personal feelings, he would be glad to have extended to all the other possessions of Spain in Oceania, between which and these United States no less beneficial and untrammelled relations should exist than those which now exist between these States and the Kingdom of Hawaii.

The undersigned gladly avails, &c.,

JUAN VALERA.

No. 422.

*Mr. Valera to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,  
*Washington, March 12, 1886. (Received March 13.)*

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of Spain, has the honor to transmit to the Hon. Thomas F. Bayard, Secretary of State, a copy of a dispatch which he has just received from his Government, and whereby he replies, in part, to the inquiry made of him by the Hon. Mr. Bayard in his note of the 2d instant. In order to reply with greater fullness, the undersigned will await the instructions and the authorization which he has asked for.

In the mean time he gladly, &c.,

JUAN VALERA.

[Inclosure with Mr. Valera's note of March 12, 1886.]

MOST EXCELLENT SIR: By his note of September 22, 1885, the Chargé d'Affaires of the United States, by order of his Government, called the attention of the Marquis del Pazo de la Merced, my predecessor, to the work that has been accomplished in the Caroline Islands by the American Board of Foreign Missions, which, for thirty years, has maintained a considerable number of missions there, having introduced civilization and morality in said islands, and having rescued many native tribes from the state of barbarism and cannibalism which formerly prevailed in those regions. The Chargé d'Affaires added that the dispute which has arisen between Spain and Germany concerning the sovereignty of the Carolines was not a matter for his Government to express an opinion about, but that, in view of the facts above stated, it confidently hoped that, in whatever manner the dispute might be settled, nothing would interrupt the non-political labors of the American missionaries in that region, but that, on the contrary, their benevolent enterprise would be aided and protected. The minister of state, on the 15th of October following, informed the United States Legation that nothing was farther from the intention of the Spanish Government than to seek to hamper or embarrass in the slightest degree the work of Christianizing and teaching to which the Chargé d'Affaires had referred, it being determined, on the contrary, to favor and promote such beneficent results to the extent of its ability. The minister added, in conclusion, that he performed a pleasing duty in making that satisfactory and affirmative reply to all the points contained in the note of the United States legation, in order that through it that reply might be brought to the notice of the Government of the Union. I have consequently thought proper to transmit the aforesaid notes to the minister of the colonies, and I do so this day, to the end that he may consider them at the present time, when he is engaged in reorganizing the government of those islands.

By royal order, &c.

God guard you.

MADRID, *February 16, 1886.*

No. 423.

*Mr. Porter to Mr. Valera.*

DEPARTMENT OF STATE,  
*Washington, March 25, 1886.*

SIR: I have the honor to acknowledge the receipt of your note of the 12th of March, in which you inclose, with reference to a communication of 2d instant, a copy of a note from the minister of state of Spain, on the subject of the intended encouragement of the American enterprise in the Caroline Islands, having in view the well-being of the native populations there. The minister's communication is exceedingly satisfactory, and I await with much interest the further information which your kind note promises the Department.

Accept, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

No. 424.

*Mr. Muruaga to Mr. Bayard.*

[Translation.]

SPANISH LEGATION IN WASHINGTON,  
*Washington, May 4, 1886. (Received May 5.)*

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of Spain, has the honor to address the honorable Thomas F. Bayard, for the purpose of informing him, in reply to his note of the 2d of March



last, concerning the treatment which American citizens are to receive in the Caroline and Pelew Islands, that Her Majesty the Queen Regent in conformity with the resolution of her ministers in council, has been pleased to direct the undersigned to inform the honorable Secretary of State that the treatment which American citizens are to receive in those archipelagoes will not be less favorable than that accorded to Germans or other foreigners.

The undersigned hastens with great pleasure to transmit to the Secretary of State this unanimous decision of Her Majesty the Queen Regent, and her council of ministers, who testify to the sentiments of lively sympathy and cordial friendship which the Spanish nation entertains for the Government and people of the United States.

And he avails, &c.,

E. DE MURUAGA.

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No. 425.

*Mr. Bayard to Mr. Muruaga.*

DEPARTMENT OF STATE,  
Washington, May 28, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, in which you convey the assurance of Her Majesty's Government, so gratifying to the President, that the American citizens will receive the same favorable treatment in the Caroline and Pelew Islands which is accorded to Germans or other foreigners.

The President desires that you will kindly make known to Her Majesty and Her Majesty's Government the full appreciation which he entertains of this very courteous additional act of comity on the part of Spain toward the United States, and his sincere hope that the good will of the two countries will always continue.

Accept, &c.,

T. F. BAYARD.

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No. 426.

*Mr. Bayard to Mr. Muruaga.*

DEPARTMENT OF STATE,  
Washington, October 14, 1886.

SIR: In view of the decision of the Spanish Government that discriminating and higher duties will continue to be imposed and collected upon foreign products shipped from the United States to the Antilles in vessels of the United States, I have the honor to state that the President has no alternative but to revoke the proclamation of his predecessor of February 14, 1884, which declared that on and after the 1st day of March, 1884, so long as the products of and articles proceeding from the United States, imported into the islands of Cuba and Porto Rico should be exempt from discriminating customs duties, any such duties on the products of and articles proceeding from Cuba and Porto Rico, under the Spanish flag, would be suspended and discontinued.

This revocation, proclaimed on the 13th instant, is to take effect on the 25th instant, thus giving reasonable notice to all interested.

Our minister at Madrid has been instructed to inform his Excellency the Spanish minister of foreign affairs of the issuing of the said proclamation, and to express the great regret of this Government that the action of that of Spain should have compelled the President most reluctantly to this unavoidable decision.

I take leave to express the earnest hope that a prompt adjustment of trade regulations between the Spanish West Indies and the United States may remove these discriminations against commerce and navigation, which are assuredly against the interests of friendly countries, whose close contiguity creates especial reasons for unobstructed intercourse.

I have the honor to inclose six copies of the President's proclamation.

Renewing an expression of my hopes that the late agreement of February, 1884, may be yet mutually executed for the obvious advantage of the Governments we respectively serve,

I am, &c.,

T. F. BAYARD.

[Inclosure in note of October 14.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas, by a proclamation of the President of the United States, dated the fourteenth day of February, in the year eighteen hundred and eighty-four, upon evidence then appearing satisfactory to him that the Government of Spain had abolished the discriminating customs duty theretofore imposed upon the products of, and articles proceeding from, the United States of America, imported into the Islands of Cuba and Porto Rico, such abolition to take effect on and after the first day of March of said year eighteen hundred and eighty-four, and by virtue of the authority vested in him by section four thousand two hundred and twenty-eight of the Revised Statutes of the United States, the President did thereby declare and proclaim that on and after the said first day of March, eighteen hundred and eighty-four, so long as the products of, and articles proceeding from, the United States, imported into the Islands of Cuba and Porto Rico, should be exempt from discriminating customs duties, any such duties on the products of, and articles proceeding from, Cuba and Porto Rico under the Spanish flag should be suspended and discontinued;

And whereas, by Article I of the Commercial Agreement signed at Madrid the thirteenth day of February, eighteen hundred and eighty-four, it was stipulated and provided that "the duties of the third column of the customs tariffs of Cuba and Porto Rico, which implies the suppression of the differential flag duty," should at once be applied to the products of, and articles proceeding from, the United States of America;

And whereas the complete suppression of the differential flag duty in respect of all vessels of the United States and their cargoes entering the ports of Cuba and Porto Rico is, by the terms of the said agreement, expressly made the consideration for the exercise of the authority conferred upon the President in respect of the suspension of the collection of foreign discriminating duties of tonnage and imposts upon merchandise brought within the United States from Cuba and Porto Rico in Spanish vessels, by said section four thousand two hundred and twenty-eight of the Revised Statutes, which section reads as follows:

SEC. 4228. Upon satisfactory proof being given to the President, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufacturers, or merchandise imported into the United States from such foreign nation, or from any other foreign country; the suspension to take effect from the time of such notification being given

to the President, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, shall be continued, and no longer.

And, whereas proof is given to me that such complete suppression of the differential flag duty in respect of vessels of the United States and their cargoes entering the ports of Cuba and Porto Rico has not in fact been secured, but that, notwithstanding the said agreement dated at Madrid, February 13, 1884, and in contravention thereof as well as of the provisions of the said section 4,228 of the Revised Statutes, higher and discriminating duties continue to be imposed and levied in said ports upon certain produce, manufactures, or merchandise imported into said ports from the United States, or from any foreign country in vessels of the United States, than is imposed and levied on the like produce, manufactures, or merchandise carried to said ports in Spanish vessels:

Now, therefore, I, Grover Cleveland, President of the United States of America, in execution of the aforesaid section 4,228, of the Revised Statutes, do hereby revoke the suspension of the discriminating customs imposed and levied in the ports of the United States on the products of and articles proceeding under the Spanish flag from Cuba and Porto Rico, which is set forth and contained in the aforesaid proclamation dated the fourteenth day of February, eighteen hundred and eighty-four, this revocation of said proclamation to take effect on and after the twenty-fifth day of October instant.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this thirteenth day of October, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

[L. S.]

By the President:

T. F. BAYARD,  
*Secretary of State.*

GROVER CLEVELAND.

No. 427.

*Mr. Muruaga to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN IN WASHINGTON,  
*Washington, October 16, 1886. (Received October 18.)*

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Queen Regent of Spain, has the honor to acknowledge to the honorable Secretary of State the receipt of his note of the 14th instant, with which were transmitted five copies of the proclamation of the President of the 13th of the present month.

The undersigned deploras that, in compliance with his legal duty, the President of the United States has found himself constrained to suspend the effects of the commercial agreement of February 13, 1884, especially at a time when the Government of Spain, by means of considerable reductions in its tariff of consular fees, was endeavoring to smooth the way for the conclusion of a convention; but, nevertheless, the undersigned cherishes the firm hope that, the American Government being fully convinced of the loyal and sincere disposition of the Spanish Government, fresh negotiations, inaugurated in the arena of equity and reason, will put a speedy end to the present disagreement.

The undersigned improves, &c.

E. DE MURUAGA.



No. 428.

*Mr. Muruaga to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN IN WASHINGTON,  
October 23, 1886. (Received October 23.)

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of Spain, has the honor to inform the honorable Secretary of State that, being authorized by his Government to clear up and settle the doubts and difficulties which may arise in the course of the pending negotiations for the rightful application of the absolute equality of the flag of the one and the other nation, he begs him to be pleased to state to him if orders have been issued for the temporary and conditional suspension of the effects to which the President's proclamation of the 13th instant refers.

In the judgment of the undersigned, the interests of commerce and at the same time the prudent and mature examination of the causes which have produced the disagreement and the remedy which is to be sought for the future demand the prolongation of the peremptory term fixed in the said proclamation.

He hopes, therefore, with good reason, that the Secretary of State will notify him in seasonable time of such prolongation, and repeats, on this occasion, the assurances of his highest consideration.

E. DE MURUAGA.

No. 429.

*Mr. Bayard to Mr. Muruaga.*

{Personal.]

DEPARTMENT OF STATE,  
Washington, October 23, 1886.

MY DEAR MR. MURUAGA: The telegrams I have exchanged to-day with Mr. Curry encourage me to believe that the Spanish Government will not permit discrimination to be made against vessels of the United States and their cargoes, whether proceeding from the United States or from any other point, but will award the same equality to ship and cargo that the United States wish to bestow upon the Spanish bottoms.

I have instructed Mr. Curry that with the removal of discriminating import and tonnage duties upon our vessels and cargoes carried in them from the United States and from all other points to the Spanish West Indies, the President will proclaim a suspension of the discriminating duties under the authority of section 4228 of the Revised Statutes.

I asked Mr. Curry to draw the attention of the Spanish Government to the comparatively unimportant volume of merchandise shipped from other ports than of the United States to the Antilles in American bottoms, and the favor accorded by the shipping act of June 26, 1884—a copy of which I beg to inclose—to Spanish West Indian commerce.

I would ask you to read the fourteenth section in order that you may perceive the reduction of tonnage dues on all vessels coming from the zone in which the Antilles are embraced.

\* \* \* \* \*

I venture to invoke your good aid in giving to your Government information of this feature in our commercial laws voluntarily enacted and without equivalent, and wholly in the line of commercial freedom with the Spanish possessions.

You see that I am very desirous of maintaining as close relations with the Spanish possessions as the letter and spirit of our statutes will allow, and shall be glad to see, as the first fruit of early and further negotiations, fuller and more prosperous commercial intercourse, beneficial to both of the countries respectively represented by us.

And I am, most truly, yours,

T. F. BAYARD.

[PUBLIC.—No. 67.]

AN ACT to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade and for other purposes.

\* \* \* \* \*

SEC. 14. That in lieu of the tax on tonnage of thirty cents per ton per annum heretofore imposed by law, a duty of three cents per ton, not to exceed in the aggregate fifteen cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the Sandwich Islands, or Newfoundland; and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports: *Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed, on vessels entered from any port in the Dominion of Canada, Newfoundland, the Bahama Islands, the Bermuda Islands, the West India Islands, Mexico and Central America down to and including Aspinwall and Panama, as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed on American vessels by the Government of the foreign country in which such port is situated and shall upon the passage of this act, and from time to time thereafter as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty if any to be collected under such suspension. *And provided further*, That all vessels which shall have paid the tonnage tax imposed by section forty two hundred and nineteen of the Revised Statutes for the current year, shall not be liable to the tax herein levied until the expiration of the certificate of last payment of the said tax. And sections forty-two hundred and twenty-three and forty-two hundred and twenty-four and so much of section forty-two hundred and nineteen of the Revised Statutes as conflicts with this section, are hereby repealed.

\* \* \* \* \*

## SWEDEN AND NORWAY.

No. 430.

*Mr. Magee to Mr. Bayard.*

No. 42.]

LEGATION OF THE UNITED STATES,  
*Stockholm, December 4, 1885.* (Received December 19.)

SIR: For the past two years there has been quite an animated and earnest discussion in this Kingdom of the subject of free trade and protection. Practically the policy of the Government has been that of free trade; but the very great depression of all agricultural and other industrial interests throughout the Kingdom, has led to the agitation by these various interests of the question of placing protective duties on all imported agricultural products as well as certain of the manufactured products of other countries.

A somewhat prolonged contest over the proposition took place last year in the Riksdag; the protectionist strength was unexpectedly large although the proposition was finally beaten.

In the interim, since adjournment, the question has been very generally discussed in the press and in other ways until there has been quickened a very active and zealous spirit for and against the proposed change.

Recently in the south of Sweden, the most important and considerable agricultural region in the Kingdom, meetings have been held for the purpose of eliciting an expression from those engaged in producing the articles most affected by the proposed duty, as to the policy of such a course. So far such expression has been adverse to any meddling with existing laws upon the subject. Last year a different sentiment prevailed in this same section.

The United Kingdom is unable to produce sufficient food supplies for her population, and is compelled to depend to some extent upon foreign supplies to meet the wants of her people. The lands suitable for agricultural purposes, as compared with the total area, is but a small percent., while the manufacturing and mechanical industries that might be temporarily affected beneficially by the imposition of a tariff duty on foreign manufactured articles imported into the Kingdom are not very extensive.

With the exception of England, all surrounding Governments have protective tariffs, and the argument on the part of the protectionists is that the imposition of such a tariff by Sweden would be but in the line of a spirit of fair trade or retaliation.

That element in national politics which is adverse to continuing the union with Norway is in favor of protection, so far as the newspapers give expression to public sentiment on this subject, but it is neither the influential nor numerically the strongest party in the Kingdom.

There is little apprehension on the part of the governmental party that any law proposing an imposition of tariff duties can be carried, and if there were soon to be any material revival of business interests there would practically be an end to the discussion.

The business men here look with great anxiety towards the improvement in business in the United States, informing me that good business in the States makes good business in Sweden; but up to the present there has been no substantial realization of their hopes. The disturbed condition of affairs in the Balkan states affects very perceptibly the business interests of this city, although it has increased the manufacture of the Nordenfeldt gun and other specialties used in war.

America supplies this country with its meats, while Russia and Germany furnish the breadstuffs. I have made some considerable effort to induce importers to try American breadstuffs, believing the superiority in manufacture and cheapness of production would at least enable them to compete with Russian and German products; but it requires time to induce a Swede to change from the settled policy of years. They are extremely conservative in the matter of trade and are not given to trying new experiments.

Corn is used only for the purpose of distillation, the entire supply of which comes from the United States.

Great quantities of canned meats are used, all of which come from America; but at present there is such a custom regulation that the aggregate of imports is not what it would be if the imposition were more favorable.

The present regulation requires the can to be pierced before removing from the custom-house, otherwise a rate of 10 öre, equal to about 2½ cents, per pound is levied and collected.



The piercing of the can frequently results in destroying the meat, and hence not only lessens the quantity imported, but adds materially to its selling value. These canned meats are used almost exclusively by the poorer classes, who can ill afford to pay the enhanced cost, and this has led to a discussion of the subject which may result in some dietical action of the same.

\* \* \* \* \*

The questions of national unity, tariffs, and kindred subjects will take no definite shape until after the meeting of the Riksdag, which will be in January.

I have, &c.,

RUFUS MAGEE.

No. 431.

*Mr. Porter to Mr. Magee.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1886.*

SIR: I inclose a copy of a dispatch from our consul at Gothenberg, containing statements touching the deportation of paupers and criminals from Sweden to the United States. The question is one of extreme gravity, and I have to ask that you will make a judicious and thorough investigation of the facts, and submit a report of the same to the Department.

I am, &c.,

JAS. D. PORTER,  
*Acting Secretary.*

[Inclosure in No. 19.]

*Mr. Cooper to Mr. Porter.*

No. 83.]

UNITED STATES CONSULATE,  
*Gothenberg, November 26, 1885.*

SIR: I have the honor to invite your attention to the following statement and recommendation:

It has come to my knowledge that it is a common practice throughout Sweden to ship to the United States paupers and that class of criminals who have served out their sentences in work-houses, prisons, &c., but who, pursuant to the laws of the Kingdom, are still laboring under political disabilities, such as the deprivation of the right to vote and of the rights of citizenship generally. \* \* \* When the shipment of these classes from Swedish ports is impracticable, for one reason or another they are sent out of the country to foreign ports, such as Copenhagen and Hamburg.

As a consul, under existing laws, I am powerless, but I respectfully submit this suggestion looking to a suppression of the practice.

I respectfully recommend that the laws be so amended as to compel every intending emigrant of the age of ten years and upwards to produce before the consul of the United States at the port of embarkation a certificate from the proper authorities that he or she is a citizen of the country in which the port is located; and that he or she is not laboring under political disabilities of any nature whatsoever; that he or she is not the object of criminal proceeding or investigation, and is not a charge upon the community in which he or she may have lived as a pauper; and that the consul of the United States shall affix a brief certificate, under seal, attesting the legality of the paper produced by the emigrant.

I am, &c.,

SIDNEY W. COOPER,  
*Consul*

No. 432.

*Mr. Magee to Mr. Bayard.*

No. 51.]

LEGATION OF THE UNITED STATES,  
*Stockholm, January 26, 1886. (Received February 15.)*

SIR: I have the honor to acknowledge the receipt of your No. 19. of date of January 4th instant, inclosing a copy of a dispatch from Mr. Sidney W. Cooper, United States consul at Gothenberg, Sweden.

The subject of both dispatches, viz, the exportation from Sweden to the United States of persons belonging to the pauper and criminal classes, had received considerable attention from myself prior to your instructions relating thereto.

Most shipments of Swedish emigrants take place either from the port of Copenhagen or Gothenberg, as those two are the only Scandinavian ports from which shipments can be made direct. So far as this port is concerned, I am very well satisfied that no such practice prevails as that referred to and made the subject of Mr. Cooper's dispatch. Some time since the attention of the Swedish Government was called to this matter, whereupon it disavowed in the most emphatic manner any knowledge of or connivance with the practice complained of. My predecessor caused at that time to be published in the leading Swedish papers the law of the United States relating to emigration, and the Swedish Government has enacted a law which requires every person about to emigrate to first procure from the chief of police of the district in which the proposing emigrant resides a certificate, certifying that he or she does not belong to one or both of the objected classes referred to in your dispatch. That law is still in force.

There exists in this city, with branches in the principal cities of the Kingdom, a society the object of which is to assist discharged convicts, and it has been the practice of this society to furnish money to such of that class as desire to emigrate.

So soon as it was ascertained that this society had assisted criminals to emigrate to the United States the officers were notified that it was in violation of existing laws, and I have their assurances that they immediately ceased doing so. The consul at this city has been extremely vigilant in this behalf; but owing to the fact that this class can ship as seamen or laborers from ports where there is no consular agent of the United States, and can evade thereby the regulation of this Government, it is impossible to say to what extent the practice prevails.

I am further informed that a portion of this class go to Germany, England, and other countries, and it is possible they reship from some port in those countries.

It is a very easy matter for an emigrant to get out of this country and evade the existing laws by going to Copenhagen, or any port on the Baltic or North Sea, and this, I understand, is a common practice.

Whatever aid is rendered emigrants of this class is done clandestinely by friends of the emigrating pauper or criminal. It is very certain this Government does not give any aid to this or any class of emigrants. \* \* \* By inspection of the certificate issued to each emigrant by the Swedish chief of police the United States consul can ascertain the character of the emigrant, and if he finds the certificate fraudulent he can prevent the embarkation. The consul at this city informs me that the Swedish authorities have always rendered him any assistance asked in ascertaining the character of the proposing emigrant. Doubtless the same courtesy prevails at every port in the Kingdom.

I can readily understand the importance of this question; but it is just possible that the report of the evil is somewhat exaggerated, as after considerable inquiry among persons who know something of emigration and the character of emigrants I can hardly agree with Mr. Cooper when he says that "it is a common practice throughout Sweden" to ship the criminal and pauper class to America. What occurs at Gothenberg or other ports I am unable to say; but I am very well convinced that no such practice prevails at this port, and in no way does the General Government encourage such emigration. If I can ascertain what municipality engages in this business, I think I can secure the co-operation of the Government in putting a stop to it.

Wherever the practice prevails it is done secretly, and it is difficult to arrive at the true facts, and therefore any further suggestions you may be pleased to make to me will receive my prompt attention.

I have, &c.,

RUFUS MAGEE.

No. 433.

*Mr. Bayard to Mr. Magee.*

No. 22.]

DEPARTMENT OF STATE,  
Washington, March 4, 1886.

SIR: I have received your No. 51, of the 26th January last, on the subject of the proposition of Consul Cooper, to require of emigrants to America a certificate of character from the United States consul at the port of embarkation.

The statements which you make of the evident disposition of the General Government to place all possible obstacles in the way of any known attempt to ship the pauper and criminal class to this country, together with other remarks which you offer on the subject, seem to warrant your opinion that the proposition of Consul Cooper should not at present be entertained. It may be true in the United Kingdom that certain municipalities, or the officers of those municipalities, attempt from time to time to rid themselves of objectionable characters in this way, and, as you suggest, the secret methods employed in such cases make it difficult to detect the agents, and the most effective measures to prevent the deportation of these unwelcome classes will doubtless be taken by the police authorities.

Where you become aware of actual deportations to any given port of the United States a telegram from you, giving the date and port of embarkation, the name of the vessel, and a description of the emigrants, might be received in season to prevent the landing of the parties on our shores.

I am, &c.,

T. F. BAYARD.

No. 434.

*Mr. Magee to Mr. Bayard.*

No. 54.]

LEGATION OF THE UNITED STATES,  
Stockholm, March 15, 1886. (Received April 5.)

SIR: I have the honor to inform you that on Saturday last the final vote was taken in joint session of the two Riksdag chambers upon the



proposition to levy an import duty on all foreign breadstuffs. The bill was rejected by a majority vote of seventeen.

The discussion has consumed some three or four weeks of the session of the Riksdag, and the results of the proposition have been looked forward to with very great interest by the people.

The Government opposed the measure, and therefore upon the fate of the bill depended the continuance of the present ministry. The result of Saturday has determined both questions, viz, that the present ministry will continue in office, and that there will be no protective duties on foreign grains and breadstuffs during at least the coming year.

The question cannot again be presented at this session, and the result has had the effect to allay a growing discontent among the laboring classes, which was beginning to find expression in a very emphatic manner.

During the time the question was under discussion large assemblies of workmen met and protested against the passage of the bill, and these demonstrations have not been without their effect.

There is at present a very distressed condition of all working classes, said to be unexampled, and the proposition to tax their food supplies met with the most determined opposition, and possibly, had the measure become a law, would have resulted in very serious trouble.

It is thought that the bill imposing import duties on mechanical products will likewise be defeated, as the agricultural representatives in the two chambers who favored the duty on grains, &c., are not in accord as to the latter proposition.

I have, &c.,

RUFUS MAGEE.

No. 435.

*Mr. Magee to Mr. Bayard.*

No. 56.]

LEGATION OF THE UNITED STATES,  
*Stockholm, March 22, 1886. (Received April 26.)*

SIR: I have the honor to acknowledge the receipt of your No. 22, of date March 4, 1886, in reference to the deportation of criminal and pauper persons to the United States from the United Kingdom, and have noted your suggestions as to telegraphing, &c.

Since my residence here I have tried to acquaint myself with such facts as are important to know, in order to arrive at any sort of judgment in reference to this question, and have found at all times a perfect willingness on the part of the authorities to extend to me all information on the subject. Of course much depends upon the consul, who always has knowledge of the clearances of vessels to American ports, and I am satisfied the consul at this city is very vigilant in the discharge of his duties.

On account of the very severe depression in all classes of business, with thousands of people out of employment, it is possible there may be a large emigration to the United States this spring and summer, and it is not improbable some persons coming under the head of paupers may find their way across the Atlantic; but, taking into consideration the numerous embarking ports, both on the Baltic and North Sea—the German and Danish ports—it would be a physical impossibility for the

Government of the United Kingdom to give to each of its emigrating citizens a certificate of character.

The law of the United Kingdom, as it is now, prohibits the emigration of a citizen without first procuring such a certificate, but it does not prevent them from embarking from ports located in territory over which it has no jurisdiction.

Whatever I may accomplish by personal watchfulness in this matter will be done.

I have, &c.,

RUFUS MAGEE.

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No. 436.

*Mr. McGee to Mr. Bayard.*

No. 74.]

LEGATION OF THE UNITED STATES,  
*Stockholm, November 1, 1886. (Received November 15.)*

SIR: For some time I have been trying to ascertain the sentiment among certain classes of citizens in reference to the agitation of socialistic views so prevalent in all parts of Europe.

The Swedish people are by nature impassive and not easily aroused to any excessive degree of enthusiasm in any cause. They love order, and prefer to adhere to those things they have proved from experience as being both useful and necessary rather than to engage in any untried or uncertain enterprises.

However, the socialistic propaganda has found some adherents in various portions of the two Kingdoms, and the growth of the organization that had for its purpose the advancement of socialistic views has been of such a character as to receive governmental attention. German and Danish agitators have been sent to Sweden for the purpose of advocating the formation of socialistic societies, and it is only within a short period that what is here called the "Democratic Socialistic" movement has had any significance in this country.

In Norway some socialistic unions were established in 1873-75. They ceased to exist after a short time. In both countries, during the last two years, there has been a great revival of the agitation, and a large number of persons have become imbued with the socialistic view. In both countries the organization of a central club or union was accomplished at about the same time.

In Stockholm the "Programme of the Swedish Social Democrat party of workmen" was issued on the 8th of February, 1885, under the auspices of the Social Democratic Central Club of Stockholm. At Christiania, in Norway, on March 1, 1885, was organized the "Social Democratic Union," which issued its programme on the 29th of March.

The final purpose of the movement, as set forth in these programmes, is the realization of the socialistic commonwealth, where the soil, as well as all means of production, is to belong to the state.

Besides this very general purpose there are several preparatory measures embraced in the programme, viz, "progressive taxation," *i. e.* equal taxation; improvement in all labor laws, relating to hours of work, the work of women and children, workmen's insurance against accidents, disease, old age, &c.; universal suffrage (embracing women), based on a qualification of age only; abolishing the standing army; the right to reject by the people all laws enacted by the Riksdag, &c.

A newspaper was established in Stockholm to advocate these views, and while its publications have been extremely virulent, there has been no governmental interference.

However, there has been something approaching irritation in official circles, and it has been reported that the Diet, at its meeting in January, would pass a law forbidding the publication of socialistic newspapers, as well as the meeting of socialistic agitators. I am of the opinion that the Diet will take no action in the matter, and in this I am strengthened from reading a recent address published by the "Work ingmen's Union of Sweden," an organization no wise socialistic in its tendencies, but, upon the contrary, both moderate and conservative, and in politics allied with the liberal or progressive party in Sweden.

At a recent general meeting the question discussed was:

Does the present socialistic propaganda further or hinder the adoption of such laws as will be of an advantage to the cause of the workman?

The union as a body, representing a very large percentage of all workmen in Sweden, declared that the socialistic movement does hinder the passage of laws calculated to advance the interests of labor. An address has been just issued to the workmen of Sweden by the central union from which I make this extract:

If those who, through such unwise and violent propaganda, bring about such a state of things were the only ones who had to bear the consequences, the whole matter might pass unnoticed; but, unfortunately, all the rest, those who wish a sound, real, and lasting development, will have to share the same sad fate.

Therefore it will not do any longer to look on when some madmen drag us down on the inclined plane. That this is no vain fear has been proved in other countries, where the agitation has been carried on in the same way without consideration for anything.

How can we hope under such circumstances even to get universal suffrage, or an extension of suffrage; the first condition for all progress? When this is pointed out to our modern improvers of society, they generally answer with the utmost coolness "that it does not matter; such is the march of development, the sooner the oppressed will learn that nothing can be gained without violence. This, then, should be the aim of the efforts of the workmen." Never! We still venture to hope that there is still reason and sense to be found with the Swedish workmen.

This address has done much to allay the pre-existing feeling, and will simplify the action of the Diet in relation to the matter. The address is the united utterance of the great body of Swedish workmen, and condemns in very strong language the views and aims of the Socialistic-Democratic party, and will neutralize its virulence and at the same time destroy its growing influence.

There is no country in Europe where the social, moral, and political condition is so unfavorable to the rooting of socialism in its soil as in Sweden and Norway, and this timely action of the United Workmen's Union has emasculated the propaganda so far as these Kingdoms are concerned.

I have, &c.,

RUFUS MAGEE.



## SWITZERLAND.

No. 437.

*Mr. Winchester to Mr. Bayard.*

No. 61.]

LEGATION OF THE UNITED STATES,  
*Berne, May 25, 1886. (Received June 5.)*

SIR: Within the last few days the legation has been advised by three consulates of the unusual activity of Mormon agents to secure emigrant recruits, it is believed, to join the community at Salt Lake. The information so far conveyed is rather vague. The consuls have been unable to obtain any accurate or positive information as to the work of these emissaries or the ultimate destination of the proselytes, but very properly have deemed it their duty to call attention to the facts, in order to stimulate additional vigilance both in Switzerland and the United States to thwart these efforts. The work of these Mormon propagandists is done very clandestinely, and in conjunction with the difficulty, in any individual case, of discovering the motives of an emigrant, it is almost impossible to find any practicable way to arrest it. The Swiss authorities, federal and cantonal, show every disposition to enforce the law of 1881, forbidding agents "to forward persons to whom the laws of the country to which they emigrate prohibit entry." The police direction of the Canton of Berne have for some time kept in the newspapers a notice warning the public against these agents and the severe penalties imposed by American legislation against polygamy.

Heretofore the Swiss Government, whilst ready to extend a cheerful co-operation in suppressing Mormon recruiting, has held with much force that as long as the laws enacted by the Congress of the United States shall fail to be enforced in Utah it must be expected that a secret propaganda, difficult to lay hold of, will be made in favor of Mormonism in other countries, and the strictest scrutiny will not be successful in preventing persons free in their persons and property from emigrating towards the country which promises the realization of their ideas. This reason can no longer be justly assigned. The existing statutes are comprehensive and explicit. The local courts are firm and determined in their execution, and are sustained by the Supreme Court. It may be confidently expected that this institution, so long a blot on the morality and decency of the country, will be suppressed and eradicated. This legation desires to be instructed as to the discretion, if any, that may be exercised in declining to issue a passport to a person presenting satisfactory proof of American citizenship, but suspected to be in Switzerland for the purpose of securing Mormon emigrants for the United States. Since the assumption of the duties of this mission there have been several instances where circumstances gave strong and reasonable grounds for suspecting the parties to be Mormon emissaries. In each case they were carefully interrogated if this was their purpose, to which they gave an unconditional denial. The power to refuse passports, wisely and discreetly used, could be made to serve a good purpose.

I am, &amp;c.,

BOYD WINCHESTER.

No. 438.

*Mr. Bayard to Mr. Winchester.*

No. 52.]

DEPARTMENT OF STATE,  
*Washington, June 9, 1886.*

SIR: Your dispatch No. 61 of the 26th ultimo, asking for instructions in regard to the issuing of passports to American citizens who are supposed to be agents of the Mormon Church, is received.

You will find on page 11 of the volume of our "Foreign Relations" for 1879 a circular sent to all our diplomatic agents abroad in regard to this question, instructing them to request all proper assistance from the Government to which they are accredited in suppressing the proselytizing for the Mormon Church. In the face of such a circular it would seem to be inconsistent to issue passports to persons who are undoubtedly Mormon emissaries, even if they are American citizens. The law as to issuing passports is permissive, not obligatory, and the decision is left with the Secretary of State under section 4075 of the Revised Statutes. Inasmuch as polygamy is a statutory crime, proselytism with intent that the emigrants should live here, in open violation of our laws, would seem to be sufficient warrant for refusing a passport. But it would be well to have the fact of the applicant for the passport being a Mormon emissary and actively engaged in proselytizing conclusively proved to your satisfaction by some kind of evidence which can be put on the files of your legation and this Department. This might be obtained, perhaps, from the police authorities or the public press, in case any meetings were held for the object of inciting to emigration.

Your usual passport-application forms will furnish the further particulars requisite to establish the identity of applicants in case any appeal should be made against your decision to this Department.

I am, &c.,

T. F. BAYARD.

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No. 439.

*Mr. Winchester to Mr. Bayard.*

No. 65.]

LEGATION OF THE UNITED STATES,  
*Berne, June 16, 1886. (Received June 28.)*

SIR: The Swiss constitution provides for semi-annual sessions of the Federal Assembly, in June and December. It is the legislative department of the Government, consisting of the council of states and national council, similar to our Senate and House of Representatives. It convened on the 7th instant, the regular summer session. The same custom as in the election of the President of the Confederation is observed in the election of the presiding officers of these two houses, the vice-presidents of last year succeeding to the presidency of their respective bodies. All the officers elected are radicals, save the vice-president of the national council, who is a member of the Right, receiving 93 out of a total vote of 145. This is the first time in the political history of Switzerland that a conservative has been elected an officer in that house. It possesses no political significance, the radicals having a large majority, and his election was a mere tribute to great personal popular-

ity, eminent ability, and long, conspicuous service. The federal council, in what may be called its message to the Assembly, calls special attention to the fact that commercial inquiry shows the treaty with Germany has rendered the position of Swiss commerce intolerable, due to the high customs duties levied by the former upon articles of Swiss importation. Negotiations for the revision or abrogation of the treaty are recommended.

The Swiss legislative department is modeled very closely after that of the United States. Representatives in the national council are apportioned according to population, and are chosen every third year by a direct vote of the people. The council of states is composed of two members from each canton, and it is the duty of each canton to regulate the manner of the election and designate the length of the term of its members of the council of states. A majority of the cantons choose them in the same manner as they do their members of the national council, by a popular vote, and the terms as fixed by the cantons vary from one to three years. Three of the cantons are divided into two cantons, each half-canton being a separate state, complete within itself, as to all domestic affairs, but the old autonomy continues as to senatorial representation, each moiety sending one member to the council of states, and as a rule these members are said to vote on opposite sides on nearly every question, more or less irritation lingering from the original cause of the division of the canton, and therefore their votes and influence are practically destroyed.

The two houses are in every respect co-ordinate, neither superior nor inferior, but each with equal power and dignity. They choose their own officers, a president and vice-president, and the sanction of both is necessary for all legislative action. There is no *veto* power vested in the executive, and no power in the federal tribunal, the national supreme court, to pass upon the constitutionality of any statute of the Federal Assembly. The judiciary is a creature of the legislative department, being elected by that department every sixth year. The only check provided on the legislative power is the *referendum*. This may be called a kind of veto. It gives no power to modify a bill, no power to substitute a bill, but is a pure negative. It is a very inconvenient and difficult remedy to apply, and therefore but seldom attempted. The *referendum* must be demanded within sixty days after the promulgation of the law by the government of eight cantons, or 30,000 voters, whose signatures to the petition must each be legally certified to. The objectionable law will then be submitted to a popular vote.

There is really no President of the Confederation in the sense of an executive. The executive authority is, in fact, deputed to a federal council of seven, who have in charge the various governmental departments, as our Cabinet, but they are elected every third year by the Federal Assembly; and the president of this council, elected also by the Federal Assembly for one year, and not eligible for re-election until after another year has expired, is the chief magistrate of the Republic. He is always assigned to the head of the political department, which embraces foreign affairs. He is invested with no more power than his colleagues of the council, all important matters being considered and determined by them sitting as a body, over which the president presides.

One in visiting the chambers of the Federal Assembly is much impressed with the quiet disptch of business. There is no full report of proceedings published or made, simply minutes taken for record; there is very little space set apart for the public, and even this rarely occupied; the press reporters very few, principally local, and not being



stenographers, only prepare for their papers a brief synopsis of the proceedings. There exists, therefore, very little inducement to indulge in buncombe speeches for home constituency and the gallery. The debates are largely confined to an explanation in a conversational style, carried on by questions pro and con from members, as to the pending measure, and as every measure of importance has been considered in advance by the federal council, the member of the council to whose department the subject matter belongs closes the debate with a statement giving the views of the council, which are usually adopted.

The members of the federal council are entitled to be heard, but not to vote, on any measure and at any time, in the Federal Assembly, and their influence is paramount. There is no "previous question" or limitation of time a member of the Assembly is allowed to hold the floor: neither has been found necessary as a guard against the volubility so often found in legislative bodies, to the detriment of business. Elaborately prepared and oratorically delivered speeches would be regarded quite out of place. Yet patient and critical investigation is made of all serious questions. First the measure is drafted by the federal council or a commission named by them, where special or technical information is required; then there is a carefully prepared and exhaustive report, both of which (the bill and the report) are published before being submitted to the Assembly. They are discussed by the people and the press, and when it comes before the Assembly it has been thoroughly digested, opinions formed, and the members prepared to take prompt action. A decision in the Assembly, as a rule, is reached by a standing vote or a ballot cast into an urn passed around the body. The ayes and noes by roll-call, which can be called for by twenty members, is very unusual. The compensation of the members is 20 francs per diem during the sitting of the Assembly, with a small mileage to and from the capital. The sessions average three weeks in duration. There are members in both houses who have served continuously since the organization of the Assembly under the constitution of 1848. The change in the membership is mainly the result of death or voluntary retirement.

During a visit to-day to the National Council a new member was sworn in, and it was observed that in elevating his right hand he extended only three fingers, and upon inquiry it was learned that it was intended to show that he was swearing by the Trinity. Three speeches were also heard, each in a different tongue—French, Italian, and German. Two of these languages are recognized as the official languages of the Assembly, and in whichever the president of the chamber speaks, an interpreter, standing near him, repeats what he says in the other. Same as to all bills and reports, and, indeed, all communications made to either house; they must be made and read to the house in both languages. This, of course, retards, and to some extent renders the proceedings tedious, the repetition of long reports, but it is a necessity, as quite a number of the members understand only one or the other of the two languages. The Italian members being very few and generally familiar with French, an interpreter for that dialect is not required. There is much experience, ability, and high education among the members of the Assembly. A very large majority are past middle age; many very far advanced in years. There is no tendency in Switzerland to abstention of the more educated classes from taking their share in public affairs, local and national. The communes are both nurseries of independence and training schools for higher politics. The rights and duties of a citizen are themes of daily interest and taught in all the secondary and superior schools. They are taught to take a personal and intelli-

gent interest in what concerns the public weal. No man is at liberty to decline public service. Elected by his equals, he takes his turn of office as he takes, in earlier days, his spell of school, and in his later days his spell of camp. Almost every canton puts a clear announcement to the very front in the fundamental law that the business of a public teacher, and the true end of public instruction, is to train their youths to a proper appreciation of the obligations of a citizen and to fit them for life, not only in the family and business, but also in the commune, the state, and the Republic. The words of de Tocqueville, in his account of American democracy—"Politics are the end and aim of education in the United States"—may be truly applied to Switzerland. Not party politics, controversial, office-seeking, electioneering politics, but politics as including in one and the same comprehensive signification, as in the vocabulary of a free country they do, all the relations and obligations of the citizen to the state. This is as it should be. No man liveth to himself in a republic; every man has public duties; every man is a public man; every man holds one high, sacred, all-embracing office—the office of a free citizen. The wide, deep-rooted prevalence and dutiful regard of this sentiment in Switzerland has produced a brave, patriotic, intelligent people, who shrink from no service or sacrifice that is essential for the preservation of their independence and their free institutions.

I am, sir, &c.,

BOYD WINCHESTER.

No. 440.

*Mr. Winchester to Mr. Bayard.*

No. 66.]

LEGATION OF THE UNITED STATES,  
Berne, June 23, 1886. (Received July 6.)

SIR: Your dispatch No. 52, of the 9th instant, in regard to the issuing of passports to suspected Mormon emissaries, is received.

The circular to which you refer, issued by the Department of State, August 9, 1879, had been carefully examined previous to the writing of my dispatch of the 25th ultimo.

The circular instructed the diplomatic agents to secure from the respective Governments to which they were accredited "such steps as might be compatible with their laws and usages to check the criminal enterprises of Mormon agents and prevent the departure of persons proposing to violate our laws." It contained no expression as to the right, or the conditions under which it could be exercised, to refuse a passport to one engaged in this unlawful business, even if he was an American citizen. It is true, as intimated by you, that it would seem inconsistent to extend the protection of the Government to a person who is denounced by the circular as pursuing a "criminal enterprise;" and it was for this reason that some specific instruction was desired, not so much as to refusing a passport to "persons who are *undoubtedly* Mormon emissaries," but what would be a sufficient warrant for doing so to *suspects*. This inquiry was suggested by cases occurring at this legation. It is a matter of common repute that there is a Mormon mission in Berne, and the recruits are sent principally to the United States.

Polygamy is a crime under Swiss law as much as it is under our laws. Its practice is not attempted here. The presence, however, of agents

from foreign colonies, stealthily and with some success, plying their wicked and illegal mission, is generally conceded. The Swiss Government, federal and cantonal, have expressed and evinced, by penal legislation and otherwise, a desire, as far as practicable, to suppress this evil. It is difficult, if not impossible, to act with entire effectiveness relative to persons leaving a country and to discover their motives, or to interpose legal restraints on emigration, based merely upon questions of morality and religion. These agents, knowing they are under the ban of the law, pursue their work very clandestinely, and are careful not to commit any overt act which is a breach of the law of Switzerland. To this extent they are under the surveillance of the police authorities. Further, these officers have no interest, and cannot be expected to do detective-service in behalf of a foreign power unless specially assigned to do so.

You say, "it would be well to have the fact of the applicant for the passport being a Mormon emissary and actually engaged in proselyting, conclusively proved to your satisfaction by some kind of evidence which can be put on the files of your legation and this Department." If this is the limit of discretion to be exercised it will not avail anything. As above stated, these men are too shrewd to furnish any *positive proof* obtainable by the common and ordinary channels. This legation was thoroughly satisfied that several persons, alluded to in my dispatch of May 25, were Mormon agents from the United States, here for the purpose of securing recruits, but the fact was not manifested by any "evidence which could have been placed on the files." The inference was irresistibly forced by many circumstances drawn out in the course of conversation, even their very manner and appearance contributing to a conviction as to their character, strong and overwhelming as *circumstantial* evidence only can furnish, yet not capable of being formulated into a specific indictment. It was this which induced me to submit the inquiry as to the right to act in all such cases, even in the absence of *satisfactory evidence*, in its legal sense, but satisfactory in establishing a strong and reasonable suspicion. To do so would be simply applying to the issue of a passport the same rule of action that obtains as to the request for the intervention of a diplomatic agent for the protection of the Government. Neither are absolute rights. Both may be much modified by the conduct of the citizen, who may be estopped to claim either by his own conduct. The right to a passport, I take it, like the right to protection, is not always correlative with the fact of citizenship. The request in both instances should be listened to with attention, and the diplomatic agent authorized to act in each case from his best judgment, having an equal regard for the rights of the Government and the citizen.

I am, &c.,

BOYD WINCHESTER.

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No. 441.

*Mr. Bayard to Mr. Winchester.*

No. 59.]

DEPARTMENT OF STATE,  
Washington, July 20, 1886.

SIR: Your dispatch, No. 66, of the 23d ultimo, in reply to my instruction, No. 52, of the 9th of that month, in regard to the issuing passports to suspected Mormon emissaries, has been received.



My previous instruction is not to be understood as obliging you to issue a passport in any case in which you have strong and reasonable suspicion that the person applying for the same is a Mormon emissary. Your dispatches reporting your action in each individual case to the Department will place all the facts upon record in the legation in the manner contemplated by the previous instruction of the Department.

I am, &c.,

T. F. BAYARD.

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No. 442.

*Mr. Winchester to Mr. Bayard.*

No. 81.]

LEGATION OF THE UNITED STATES,  
*Berne, September 13, 1886. (Received September 25.)*

SIR: I have the honor to report that in obedience to your instructions I attended, as the United States delegate, the International Copyright Conference, which met at Berne on the 6th instant, in the hall of the council of states. The following states were represented: Great Britain, Germany, France, Spain, Italy, Belgium, Switzerland, Liberia, Hayti, Tunis, and the United States. Mr. Droz, vice-president of the Swiss Confederation, was again chosen president of the conference, and the French ambassador at Berne, Mr. Arago, to be vice-president. The declaration proposed by the French Government relative to the sense of Articles 5, 7, 9, and 10, after a brief discussion, was withdrawn. A verbal omission in the draft convention being corrected, and any amendment being precluded by the terms of the draft, it remained only to fill in certain blanks, and, by signing, to transform the project of convention, elaborated in September, 1885, into a definitive diplomatic act. The place of the next meeting of the delegates of the Union was unanimously fixed at Paris, and the time, to be named by the French Government and the bureau of the Union, not sooner than four years or exceeding six years from date of ratification. By the terms of the convention, it must be ratified and the ratifications exchanged within one year, and it shall be put in force three months after said exchange. The bureau or international office is located at Berne, and is placed under the high authority of the superior administration of the Swiss Confederation.

In signing the definitive convention, the several states made declaration of class as follows:

First class, Great Britain, France, Germany, and Italy.

Second class, Spain.

Third class, Belgium, Switzerland.

Fifth class, Hayti.

Sixth class, Tunis.

Notification was made to the effect that the accession of Great Britain would comprehend all the colonies and foreign possessions of Her Majesty. The delegates from Spain were unable to give a similar notice as to Spanish colonies from a failure to receive the authority in time, but the inclusion will be made previous to exchange of ratification. Deeming it proper that I should make a statement to the conference, in the sense of the instructions contained in your dispatch No. 61, of August 18, ultimo, the following remarks were submitted at the opening session:

Through a circular note of the Swiss federal council the Government of the United States has been invited, in concert with the other powers represented in the copyright conference held here in September, 1885, to instruct and empower a delegate to attend this conference, and to sign in behalf of the United States the international convention for the general protection of literary and artistic property, which was drafted *ad referendum* by the conference of last year.

The Government of the United States again finds it impracticable to depute a plenipotentiary delegate, and is constrained to withhold its formal participation, as a signatory in the international convention which resulted from the deliberations of 1885, and thus transform that convention into a full diplomatic engagement. To exhibit its benevolence, however, towards the principle involved, the Government of the United States desires, with the pleasure of this conference, to be represented here, and has conferred upon me the honor to attend this conference as a delegate, provided that my attendance is fully recognized and admitted to be without plenipotentiary powers, but under the limitation and reservation that the United States, not being a party to the proposed convention, reserve their privilege of future accession under provisions of Article 18 thereof, which declares that "countries which have not joined in the present convention and which by their municipal laws assure legal protection to the rights whereof this convention treats, shall be admitted to accede thereto on their request to that effect."

Whilst not prepared to join in the proposed convention as a full signatory, the United States does not thereby wish to be understood as opposing the measure in any way, but on the contrary desires to reserve without prejudice the privilege of future accession to the convention, should it become expedient and practicable to do so. Should any question exist, that the representation of the United States in this conference, even under specific and recognized limitation, is such a participation as would suffice to exclude them from the category of the countries that have not joined in that instrument, and thereby to exclude them also from the privilege of future accession, should they desire to avail themselves of it, I desire to emphasize the fact, that the course of the United States is in nowise intended or to be construed as a participation in the result either by acceptance or rejection. The position and attitude of the United States is one of expectancy and reserve. The Constitution of the United States enumerates among the powers especially reserved to Congress, that to "Promote the progress of science and the useful arts by securing for limited terms to authors and inventors the exclusive right to their respective writings and discoveries," which implies that the origination and limitation of measures to those ends rest with the legislative rather than the treaty-making powers.

Copyright and patents are on the same footing of regulation by federal legislation, and the executive branch of the Government cannot be unmindful of the continued pendency of its consideration by the legislative department, or disregard the constitutional right of that department to conclude international treaties on this important subject.

The question of international copyright is one of great interest to the United States. In fact few other nations can lay claim to greater concern than that naturally felt by a people distinguished for enlightened, extensive, and growing intellectual life, and whilst not infringing upon the constitutional prerogative of Congress to initiate and conclude copyright legislation, likewise to define the rights of aliens and citizens within its jurisdiction, the Executive, in his first annual message to Congress, inviting its attention to the conference of last September, said, "Action is certainly desirable to effect the object in view;" and the secretary of state for foreign affairs, in his official dispatches relating to this conference, freely expresses his concurrence with the principle sought to be enunciated by the proposed convention, and conveys the hope that the time is not distant when rights of property in the creations of the mind may be universally secured under conditions favorable alike to the author and to the world's right to share in the diffusion of ideas. The brain that creates is entitled to and should receive its just and full compensation, is a sentiment having its origin in the natural sense of honesty. Literary property has been to some extent recognized in all ages, and is to-day guaranteed in almost every State by domestic legislation. This recognition and guarantee should be without distinction of nationality and without regard to political frontiers. It is a matter of congratulation, and redounds much to the credit of the Swiss Government, through whose active effort the movement was successfully inaugurated and supplemented by the patient and intelligent labors of the several conferences held here at her invitation, that a just and permanent settlement, once for all, of the grave question of the protection of works of literature and art, so long and unjustly denied, is promised by means of a uniform, efficacious, and complete international convention.

At the close of my remarks the president of the conference said:

The president thanks Mr. Winchester and assures him in the name of the conference that the accession of the United States would be received at any time with joy

by all the contracting states. In regard to Article 18 of the convention to which Mr. Winchester alluded it could not exclude the United States from accession, for as a matter of fact the United States have not taken part in the convention; they have only commissioned Mr. Winchester as a delegate with limited powers, as set forth by him, to take part in the conference, not in the convention.

My position and relation to the convention and any subsequent bearing it might have was fully and unanimously accepted by the assent of all the delegates to the declaration made by the president. The non-participation of the United States as one of the original signatory powers of the convention was a matter of free and avowed regret, there seeming to be but one sentiment, that no international copyright union could be complete without the United States, and great solicitude expressed that the convention should contain no stipulations of a nature unacceptable to the United States. It was very natural that the conference should have regarded it as very unfortunate that the United States was not prepared to enter the union; they realized that a great and literary country like the United States should have had a potent voice in the formation of the convention, and a paramount influence in procuring a favorable and acceptable basis for their adherence.

I may be permitted to express the opinion that the Government of the United States cannot afford to stand before the world as the only important and deeply-concerned power persistently refusing to do common justice to foreign authors, and that it may be justly anticipated, that the copyright union being formed and acceded to by the more important European countries, it will before long feel it difficult to abstain from becoming a party to it also, and Congress will proceed to pave the way to the adhesion of the United States to the union. There are large interests invested on the faith of the existing law that should receive proper consideration and be equitably dealt with. In the absence of international copyright, general and uniform, just and full compensation for literary or artistic property is out of the question, and the injustice is all the more conspicuous in view of the fact that the discrimination made against authors is not made against any other class of foreigners. Literary property is the only kind of personal property not protected by our law when the owner is not a citizen of the United States. Even to the foreign owners of patents and trade-marks, which are so analogous to copyright, protection is accorded. The question should be solved in an acceptance of the moral view, that if it be right for a native citizen to have copyright in the productions of his intellect it is equally right for an alien author to have the same property right recognized and protected.

It is nearly half a century since Prussia first set the example of granting international copyright. In 1837 a law was passed that every country might secure copyright for its authors in Prussia upon granting reciprocity. This was followed by England in the succeeding year. In consequence of these, numerous international treaties of copyright have been negotiated. France set the example during the Empire of forbidding the piracy of books and works of arts published abroad without requiring reciprocity. Property in ideas is now conceded in every civilized country by legislative enactment, and the right to profit by the product of the brain should secure for the author, in the words of Burke, "that justice which is not a matter of climates and degrees." Whilst literary rights may not partake of the same unlimited nature as what is known technically as real or personal property, they should certainly be valid and secured within certain limitations. Outside of the ethical or abstract rights, copyright is a modern development of the principle of property which every man of delicacy and honor must commend, re-



gardless of the obscurity which may envelop its origin. The sophistical plea that the culture and education of the American people is to be imperiled and books to be placed beyond the reach of the masses by international copyright, should be disregarded. If necessary the reverse could be supported by many practical considerations. This, however, is not the question now submitted. The primary matter is to do what is right and just. In the long run it is the only safe, and proves the most profitable course, as well to nations as to individuals. Why should we force our native authors to suffer a great injustice from being forced into unusual competition with the wrongfully appropriated labor of foreign authors.

The spirit of literary ambition and activity is daily becoming greater and most diffusive among our people, quickening and nourishing into life a vast and valuable native literature. It is impossible to determine the elements which must conspire to form and build up a native literature. It is a mystery, not solved to the satisfaction of scholars, why it should have put forth so early and transitory bloom in Italy; why it should have ripened so late in Germany and Scotland; why in England alone it should endure no vicissitudes of seasons, but smile in eternal spring. But we may be confidently assured that a people to whom Providence has given a stirring history, a land abounding in landscapes of beauty and grandeur, and a high degree of mental activity, extending the range of knowledge and scattering its seeds among all classes without price cannot remain long destitute of a most extensive and superior native literature. Already the peer of the proudest in military achievements and material prosperity, truth, freedom, and civilization never presented a richer field and a brighter future for intellectual laborers than is to be found in the United States. Inexhaustible material sleeps in the womb of morning, and the forming hand of letters is rapidly seizing and vitalizing these mighty elements. The day will soon come when the United States will be as conspicuous in the markets of the world for its literary as it is to-day for its material products.

I transmit under a separate cover a copy of convention as signed.

I have, &c.,

BOYD WINCHESTER.

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[Inclosure in Mr. Winchester's No. 81.—Translation.]

*Convention concerning the establishment of an International Union for the protection of literary and artistic works.*

The President of the Republic of Liberia; His Majesty the Emperor of Germany, King of Prussia; His Majesty the King of the Belgians; His Catholic Majesty the King of Spain, in his name Her Majesty the Queen Regent of the Kingdom; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; the President of the Republic of Hayti; His Majesty the King of Italy; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis equally animated with the desire to protect, as efficiently and uniformly as possible, the rights of authors in regard to their literary and artistic works,

Have resolved to conclude a convention to that end, and have named as their plenipotentiaries, that is to say: (names and titles of plenipotentiaries) who, after communication of their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The contracting parties hereby establish a state of Union for the protection of the rights of authors in regard to their literary and artistic works.

## ARTICLE II.

Authors under the jurisdiction of one of the countries of the Union, or their legal representatives, shall enjoy in the other countries, for their works, whether published in one of such countries or not published, the rights which the laws thereof now or shall hereafter grant to natives.

The enjoyment of these rights is subject to the fulfillment of the conditions and formalities prescribed by the legislation of the country where the work originates; and cannot exceed, in the other countries, the duration of the protection accorded in the said country of origin.

The country of the first publication of a work shall be deemed the country of origin, or, if the publication shall have been simultaneously effected in several countries of the Union, that shall be deemed the country of origin whose legislation grants the shortest term of protection.

In the case of unpublished works, the country to which the author belongs is deemed to be the country of origin of the work.

## ARTICLE III.

The stipulations of the present convention shall equally apply to the publishers of literary or artistic works, published in one of the countries of the Union, whose author belongs to a country not a member of the Union.

## ARTICLE IV.

The phrase "literary and artistic works" comprises books, pamphlets, or any other writings, dramatic or dramatico-musical works, musical compositions with or without words, works of design, painting, sculpture, engraving, lithographs, illustrations, geographical maps, plans, sketches, and models in relief relating to geography, topography, architecture, or the sciences in general; in short, any production whatever of the domain of literature, science, or art, which can be made public by any mode of impression or reproduction whatsoever.

## ARTICLE V.

Authors under the jurisdiction of one of the countries of the Union, or their legal representatives, shall enjoy, in the other countries, the exclusive right of translating or authorizing the translation of their works, until the expiration of ten years dating from the publication of the original work in one of the countries of the Union,

For works published in installments, the period of ten years only begins to count from the date of the publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for the bulletins or pamphlet issues published by literary or learned societies or by private individuals, each volume, bulletin, or pamphlet issue is, in so far as concerns the ten-year period, to be deemed a separate work.

In the cases provided for by the present article, and for the determination of the periods of protection, the 31st of December of the year of publication of the work is admitted as the date of publication.

## ARTICLE VI.

Lawful translations are protected as original works. They consequently enjoy the protection stipulated by Articles II and III, in so far as concerns their unauthorized reproduction in the countries of the Union.

It is understood that, in the case of a work whereof the right of translation has become public property, the translator cannot prevent the same work from being translated by other writers.

## ARTICLE VII.

Articles which appear in newspapers or periodicals published in one of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers shall have expressly forbidden it. In the case of periodicals, it will be sufficient if the prohibition be announced in a general manner on the first page of each number thereof.

In no case shall this prohibition apply to articles of political discussion or to the reproduction of news of the day or of current items.

ARTICLE VIII.

In so far as concerns the liberty of lawfully making compilations from literary or artistic works for publications intended for educational purposes or of a scientific character or for anthologies (*chrestomathies*), the matter is reserved for decision under the legislation of the several countries of the Union, or under special arrangements existing or hereafter to be concluded between them.

ARTICLE IX.

The stipulations of Article II apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

The authors of dramatic or dramatico-musical works, or their legal representatives, are during the term of their exclusive right of translation in like manner protected against the unauthorized public representation of translations of their works.

The stipulations of Article II likewise apply to the public performance of unpublished musical works, or of those published works whereof the author has expressly declared on the title-page or at the commencement of the work that he forbids the public performance thereof.

ARTICLE X.

Unauthorized indirect appropriations of a literary or artistic work, under various designations, such as adaptations, arrangements of music, and the like, are expressly comprised among the unlawful reproductions to which the present convention applies, when they are merely the reproduction of a particular work, in the same form or under another form, with unessential changes, additions, or abridgments so made as not to give the character of a new original work.

It is understood that, in the application of the present article, the courts of the several countries of the Union will, if the occasion be presented, take cognizance of the reservations made by their respective laws.

ARTICLE XI.

In order that the authors of works protected by the present convention shall, in default of proof to the contrary, be regarded as such, and consequently be admitted to institute proceedings against infringements before the courts of the several countries of the Union, it will be sufficient that their name be indicated on the work in the usual way.

In regard to anonymous and pseudonymous works, the publisher whose name appears on the work is entitled to protect the rights belonging to the author. He is, without other proof, to be taken to be the legal representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the courts may, if the case arise, require the production of a certificate issued by the competent authority, showing that the formalities prescribed by law in the country of origin have been fulfilled, as contemplated in Article II.

ARTICLE XII.

Any pirated work may be seized upon importation into those countries of the Union where the original work is entitled to legal protection.

The seizure shall take place conformably to the domestic legislation of each State

ARTICLE XIII.

It is understood that the provisions of the present convention shall not in any way prejudice the right appertaining to the Government of each country of the Union to permit, to control, or to prohibit, by measures of legislation or of domestic police, the circulation, representation, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE XIV.

Except as to the reserves and conditions to be determined by common accord, the present convention applies to all works which, at the moment of its coming into operation, have not yet fallen into the public domain [become public property] in the country of origin.



## ARTICLE XV.

It is understood that the Governments of the countries of the Union respectively reserve to themselves the right to enter into separate and particular arrangements with one another, in so far as such arrangements may secure to authors or their legal representatives more extended rights than those conferred by the Union, or may embody additional stipulations not contrary to the present convention.

## ARTICLE XVI.

An International Bureau is established under the name of "Bureau of the International Union for the Protection of Works of Literature and Art."

This Bureau, whereof the expense shall be borne by the administrations of all the countries of the Union, is placed under the high authority of the Swiss Confederation and acts under its supervision. The functions thereof are prescribed by common accord between the countries of the Union.

## ARTICLE XVII.

The present convention may be subject to revisions, with a view to introducing therein amendments calculated to perfect the system of the Union.

Questions of this character, as well as those which, in other regards, concern the increased utility of the Union, will be considered in conferences to be held successively in the countries of the Union by delegates of the said countries.

It is understood that no modification of the present convention shall be binding upon the Union except through the unanimous assent of the countries composing it.

## ARTICLE XVIII.

Countries which have not joined in the present convention, and which, by their municipal laws, assure legal protection to the rights whereof this convention treats, shall be admitted to accede thereto on their request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, and by the latter to all the others.

Such accession shall carry with it, as of full right, acceptance of all the clauses and admission to all the benefits stipulated by the present convention.

## ARTICLE XIX.

Countries acceding to the present convention shall also have the right to accede thereto, at any time, on behalf of their colonies or foreign possessions.

They may do so, either by a general declaration whereby all their colonies or possessions are comprised in the accession; or by expressly naming those comprised therein, or by merely indicating those which are excluded.

## ARTICLE XX.

The present convention shall come into operation three months after the exchange of ratifications, and shall remain in force indefinitely until the lapse of a year from the day on which notice of termination shall have been given.

Such notice of termination shall be given to the Government charged with receiving accessions; and shall have no effect save with respect to the country which withdraws, the convention remaining in full force and effect for the other countries of the Union.

## ARTICLE XXI.

The present convention shall be ratified and the ratifications exchanged at Berne within the space of one year at farthest.

In witness whereof, the respective plenipotentiaries have signed it, and have affixed to it the seals of their arms.

Done at Berne, the ninth day of the month of September of the year one thousand eight hundred and eighty-six.

[Signatures.]

ADDITIONAL ARTICLE.

The plenipotentiaries, being met to sign the convention concerning the establishment of an International Union for the protection of literary and artistic work, have agreed upon the following additional article, which shall be ratified at the same time as the convention to which it relates:

The convention concluded this day in no wise affects the continuance of any conventions at present in force between the contracting States, in so far as such conventions secure to authors or their legal representatives rights more extended than those granted by the Union, or contain other stipulations which are not contrary to this convention.

In witness whereof the respective plenipotentiaries have signed the present additional article.

Done at Berne the ninth day of the month of September, of the year one thousand eight hundred and eighty-six.

[Signatures.]

FINAL PROTOCOL.

In proceeding to the signature of the convention concluded this day, the undersigned plenipotentiaries have declared and stipulated as follows:

1. As regards Article IV, it is agreed that those countries of the Union, where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the convention concluded to-day, from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

2. As regards Article IX, it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works, expressly admit the former works to the benefits of the convention concluded this day.

It is, however, understood that questions which may arise touching the application of this clause are reserved for the respective tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright shall not be considered as constituting an infringement of musical copyright.

4. The common agreement alluded to in Article XIV of the convention shall be in the following form:

The application of the convention to works which have not become public property at the time when it comes into force, shall be effected according to the stipulations on this head which may be contained in special conventions either existing or to be concluded.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

5. The organization of the international bureau established in virtue of Article XVI of the convention shall be fixed by a regulation which will be drawn up by the Government of the Swiss Confederation.

The official language of the international bureau will be French.

The international bureau will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the bureau of an edition in one or more other languages if experience should show this to be requisite.

The international bureau will at all times be at the disposal of members of the Union, in order to furnish them with any special information they may require relative to the protection of literary and artistic works.

The administration of the country where a conference is about to be held will prepare the programme of the conference with the assistance of the international bureau.

The director of the international bureau will attend the sittings of the conferences, and will take part in the discussions without a deliberative vote. He will make an

annual report on his administration, which shall be communicated to all the members of the Union.

The expenses of the bureau of the International Union shall be borne in common by the contracting states. Unless a fresh arrangement be made, they cannot exceed the sum of 60,000 francs a year. The sum may be increased by the decision of one of the conferences provided for in Article XVII.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding states into six classes, each of which shall contribute in the proportion of a certain number of units, viz:

|                    | Units. |                    | Units. |
|--------------------|--------|--------------------|--------|
| First class .....  | 25     | Fourth class ..... | 10     |
| Second class ..... | 20     | Fifth class .....  | 5      |
| Third class .....  | 15     | Sixth class .....  | 3      |

These coefficients will be multiplied by the number of states of each class, and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unity of expense.

Each state will declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss administration will prepare the estimates for the bureau, superintend its expenditures, make the necessary advances, and draw up the annual account, which shall be communicated to all the other administrations.

6. The next conference shall be held at Paris within the period of from four to six years, dating from the coming into force of this convention.

The French Government will fix the date thereof within these limits after having taken the advice of the international bureau.

7. It is agreed that as regards the exchange of ratifications contemplated in Article XXI, each contracting party shall give a single instrument, which shall be deposited with those of the other states, in the archives of the Government of the Swiss Confederation. Each party shall receive in exchange a copy of the *proces-verbal* of the exchange of ratifications, signed by the plenipotentiaries present thereat.

The present final protocol, which shall be ratified with the convention concluded this day, shall be considered as forming an integral part of the said convention, and shall have the same force, effect, and duration.

In witness whereof, the respective plenipotentiaries have clothed it with their signatures.

Done at Berne, the ninth day of the month of September of the year one thousand eight hundred and eighty-six.

[Signatures.]

## CORRESPONDENCE WITH THE LEGATION OF SWITZERLAND AT WASHINGTON.

No. 443.

*Colonel Frey to Mr. Bayard.*

LEGATION OF SWITZERLAND,  
*Washington, June 21, 1886.*

MR. SECRETARY OF STATE:

The undersigned, minister of the Swiss Confederation, has the honor to present to you, by order of his Government, the annexed note, on which occasion the undersigned takes pleasure in renewing to you, Mr. Secretary of State, the assurances of his high consideration.

E. FREY.

[Inclosure in Colonel Frey's note of June 21, 1886—Translation.]

BERNE, June 1, 1886.

*His Excellency the Secretary of State of the United States:*

EXCELLENCY: On the 6th of November, 1885, we had the honor to transmit to your excellency a certain number of copies of the "Acts of the second international con-



ference for the protection of literary and artistic works," which sat at Berne from the 7th to the 18th September, 1885, and at the same time to invite you to be good enough to have yourself represented at a new conference which is to assemble at Berne in September, 1886, in order to sign the convention resulting from the deliberations of the conference of 1885, and thus to transform this convention into a diplomatic instrument.

We have now the honor to inform your excellency that, according to the information we have received, the convention draft has met with a favorable reception. Consequently the meeting of the new conference is fixed for the 6th September, 1886; it will take place at Berne, in the hall of the council of states, at 11 a. m.

We are glad to believe that your Government will participate in it, and with this hope we request your excellency to inform us of the name of your delegate, and to furnish him with the powers necessary to sign the convention.

We avail, &c.,

In the name of the Swiss Federal Council.

The President of the Confederation.

DEUCHER.

Vice-chancellor.

SCHATZMAN.

No. 444.

*Mr. Bayard to Major Kloss.*

DEPARTMENT OF STATE,

*Washington, June 29, 1886.*

SIR: I have the honor to acknowledge the receipt of Colonel Frey's note of the 21st instant, communicating to me copy of a circular note of the High Federal Council, dated 1st June, 1886, whereby the Government of the United States is invited to be represented at a conference to be held at Berne on the 6th of September next, by a delegate empowered to sign the international convention for the protection of works of literature and art, which was drawn up by the international conference assembled at Berne from the 7th to the 18th September, 1885.

The note of the honorable President of the Confederation refers to the previous invitation of the Federal Council, dated 6th November, 1885, which was communicated to me with your note of the 24th December of that year, in which the views of the Government of the United States were solicited—touching its participation in the proposed international conference for the purpose of adopting the suggested measure for the general protection of literary and artistic property.

The important question of international copyright has been before the Congress of the United States for several years, and a legislative measure is there pending, which will authorize the conclusion of international treaties on the subject. The matter has not advanced far enough in the legislative channel to enable the Executive to act with the desirable knowledge that the course it might adopt would be likely to agree with the views of Congress. Moreover, the Constitution of the United States enumerates among the powers expressly reserved to Congress that to "Promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," which implies that the origination and limitation of measures to those ends rests with the legislative rather than the treaty-making power. Copyrights and patents are on the same footing of regulation by Federal legislation, and the Executive branch of this Government cannot be unmindful that the Senate has only recently withheld its advice and consent from an international convention for the protection of industrial property, which modified and

enlarged for the benefit of foreigners the municipal laws of the United States in regard to patents.

All these considerations have necessarily deferred a reply to the invitation of the High Federal Council of November 6, 1885, and the continued pendency of measures in Congress makes it, as yet, impracticable for the United States to depute a plenipotentiary to attend the forthcoming conference at Berne for the purpose of signing the proposed international copyright convention.

The attitude of this Government toward the project is merely of expectancy and reserve. In principle, it favors the plan, but without determinate views as to the shape it should assume, and is at present unprepared to suggest modifications which might conform the convention to the legislation which Congress may hereafter deem appropriate. Without feeling authorized to join in the proposed convention as a full signatory, we do not thereby wish to be understood as opposing the measure in any way; on the contrary, the Government of the United States reserve, and without prejudice, the privilege of future accession to the international convention should it become expedient and practicable to do so, under the provisions of article 18 thereof, which declares that—

Countries which have not joined in the present convention and which, by their municipal laws, assure legal protection to the rights whereof this convention treats, shall be admitted to accede thereto on their request to that effect.

To exhibit its benevolence toward the principle involved, the Government of the United States will take pleasure in instructing its representative at Berne, Mr. Boyd Winchester, to attend as a delegate the conference of September next under the reserve herein indicated.

Mr. Winchester will not be empowered to sign the international convention on behalf of the United States, but he will be authorized and instructed to declare to the Conference that the United States, not being parties to the proposed convention, reserve their privilege of future accession under article 18 thereof.

Accept, sir, &c.,

T. F. BAYARD.

## TURKEY.

No. 445.

*Mr. Cox to Mr. Bayard.*

No. 94.]

UNITED STATES LEGATION,  
*Constantinople, January 5, 1886. (Received January 18.)*

SIR: In reply to a portion of your dispatch No. 49, of November 28, 1885, referring to the law creating the "Bureau of Nationality," I have the honor to inclose herein a translation into English of the law, and to say that this bureau of nationality takes its authority from the "Regulation of the commission in charge of the questions of nationalities," dated July 17, 1869 ("Legislation Ottoman," Vol. I, page 12). The commission contemplated in the above-cited regulation is changed into a regular office, and is conducted under the same regulations. The report of that bureau has not any final or judicial character. Its action is only suggestive to the minister of foreign affairs, who has a

right to adopt or to change it at his discretion. This is at least the practice up to this time, as I understand it.

In response to your questions concerning this bureau, on page 12 of your dispatch No. 49, I would say, first, as to the powers and functions of the said bureau with reference to the fifth and ninth articles of the law of 1869 (which you quoted), that as a matter of fundamental law in Turkey, from the foundation of the Turkish Empire, every person residing in the Ottoman dominions is supposed to be an Ottoman subject until he proves to the contrary; and the tenor of articles 5 and 9, in the law of nationality is simply an affirmation of the original fundamental law, and the bureau of nationality was ordained simply to examine the documents presented in support of the claim of a foreign nationality, and if found satisfactory a certificate to that effect is delivered by that bureau and the person's name is registered. The registration has the effect to prevent or avoid any further discussion of the nationality of the claimant. If the evidence is not satisfactory the certificate and registration are refused, and that bureau reports to the minister of foreign affairs a statement of the reasons why registration could not be granted. The decision, in the last resort, rests with the minister.

The bureau of nationalities has, however, certain instructions, under which it acts. They are found in an explanatory letter from the grand vizier to the governors of the provinces (see *Législation Ottoman*, Vol. I, page 9). Under these instructions, as I learn, in case there is a doubt as to the status of a person, the evidence of his status shall be furnished by himself. Moreover, it is clearly understood that the law of nationalities has no retrospective effect; that is, all Ottoman subjects who have been recognized by the Ottoman Government as foreigners by virtue of a special understanding between the Sublime Porte and the foreign missions accredited to the Ottoman Porte, or by virtue of treaties, will continue to be Ottoman subjects as before. These instructions further say that, in no case shall naturalization have the effect of withdrawing or relieving the naturalized person from suits, civil or criminal, which have been brought against him before changing his nationality.

Now the bureau admits as American citizens all Ottoman subjects who were naturalized before 1869. It is willing, I believe, to admit even those who have been naturalized after 1869, provided they prove by their first certificate of intention of naturalization, that they were out of the country (Turkey) at the time the law was enacted. But this recognition is not very reliable. It is not in the law, but against it.

\* \* \* \* \*

As there is no treaty or special convention between the United States and Turkey on the subject, any Ottoman subject naturalized in America, whether before or after 1869, without having previously obtained the requisite authorization from the Ottoman Government, is then considered an Ottoman subject.

It will be seen, therefore, that the bureau has no final or judicial functions, except that when they allow registry it is final and conclusive and the certificate given without further action or without referring it to the minister. Upon a refusal, however, to grant the registry, the instruction is as I have endeavored to describe, and which you can better decide by interpretation of the law itself, which I inclose.

Thus far registration has not been regarded as obligatory upon aliens. It is required, however, whenever the alien presents himself before an Ottoman tribunal, either as claimant or defendant, or if he has to



to validate any official or legal document, and when in any transaction the seal of an Ottoman office is necessary. In all such cases the status of the alien is questioned and then the registration becomes obligatory; but the absence of his name from the books of the bureau of registry does not create *ipso facto* the presumption that he is a Turkish subject.

I have, &c.,

S. S. COX.

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[Inclosure in No. 94—Translation.]

*Regulation of the commission in charge of the questions of nationality (July 17, 1869.)*

#### ARTICLE 1.

A special commission is appointed at the ministry of foreign affairs, with the charge to ascertain through an investigation based on the treaties, conventions, and existing laws and regulations, the real nationality of individuals who, as presumed Ottoman subjects, claim to be of a foreign nationality or under foreign protection.

#### ARTICLE 2.

This commission is composed of one president and four members. It is permanent, and shall meet at least once a week.

#### ARTICLE 3.

In questions of nationality the commission must take as a basis the provisions of the law on the Ottoman nationality, promulgated on the 24th Zilhidjé, 1285, as well as on the general instructions addressed to the imperial authorities on the 4th of Sepher, 1286, in order to summarize its extent and its import.

#### ARTICLE 4.

Matters within the province of this commission will be referred to it by a decree of the ministry of foreign affairs. It will submit to this ministry a report assigning motives and details on each matter brought before it.

#### ARTICLE 5.

The reports of the commission sanctioned by the ministry of foreign affairs, shall be executory [valid] for all the administrations of the Empire.

#### ARTICLE 6.

The commission, in the accomplishment of its task, will gather every element of information which will be found necessary.

#### ARTICLE 7.

Every time that the commission will have to take up an investigation, the mission or the consulate, the protection of which is vindicated shall have, if so desired, the faculty to send a delegate who will attend the investigation.

#### ARTICLE 8.

Persons who, in consequence of the investigation of this commission, may be admitted as really belonging to a foreign nationality, will be furnished with a printed certificate, intended to prove the results of that investigation, by showing their recognized nationality. These certificates shall stand good for all tribunals and commissions of the Empire.

#### ARTICLE 9.

A commission invested with the same powers and identical prerogatives shall be instituted in every chief town of the provinces.

It will depend directly upon the governor-general, to whom it will address its reports. He in his turn, will transmit it to the ministry of foreign affairs, which will decide on the question.

No. 446.

*Mr. Cox to Mr. Bayard.*

No. 147.]

UNITED STATES LEGATION,  
*Constantinople, April 5, 1886. (Received April 19.)*

SIR: The magnitude of our interests invested in the petroleum trade generally, and especially in the Turkish Empire, led me to request of Mr. Libby a statement of his observations in the Caspian region.

Mr. Libby is the agent of certain oil companies or corporations in the United States.

He went to Baku this winter, and under the keen light of American enterprise he took a view of the situation.

In respect to the present and future competition of the Russian with the American trade, his narrative and deductions are of importance. I inclose his statement.

I have had many requests for information from our countrymen on this topic. I would suggest that you give his statements publicity.

\* \* \* \* \*

When in Egypt I was informed by the prime minister, Nubar Pacha, that his son, who is an engineer, was then on a visit to the scene of the recent discoveries of petroleum on the Red Sea coast.

The father of our consul at Alexandria, Sir Constantine Zerduvachi, also informed me that he was about to invest in the business, if it had a favorable prospect.

He is a rich and prudent man, and I asked him to have his son, the consul, write Consul-General Cardwell or to myself any mature or authentic information and views of the Egyptian "find."

Some doubts are expressed as to the value of the Egyptian discoveries.

The first results are said to have been meager, further borings being required to confirm the speculations of the sanguine.

An article which I inclose appears in the Constantinople journal the Advertiser of April 2, on this topic.

It is suggestive of two things, (1) that oil exists in considerable abundance all over the neighborhood where a colony is already forming, and (2) that it is accessible to that part of the coast where there is good anchorage.

I have made no copy of Mr. Libby's letter, as our copying facilities in the legation are not abundant.

I have, &c.,

S. S. COX.

[Inclosure 1 in No. 147.]

*Mr. Libby to Mr. Cox.*

CONSTANTINOPLE, March 27, 1886.

DEAR SIR: To the extent consistent with the corporate and private interests I am representing, I respond with pleasure to your suggestion of submitting a few facts and impressions incident to my recent visit to Southern Russia and my present visit to Constantinople, more especially in reference to the petroleum industry.

The prehistoric sacred fires of Baku, which for many and many a century have summoned the faithful from afar, appear at last to be losing their vitality, and to-day are appealing to practical utilization in the locality and are no longer more than an occasional magnet to attract the pagan worshiper.

The petroleum fountains which some time ago awakened so much interest and wonder, the Balakhani oil field, so small yet so prolific, the cluster of adjacent refineries, constituting the black town of Baku, the tank steamers propelled by liquid fuel, the system of petroleum distribution in Russia, the illuminations of the oil on the surface of the untroubled waters of the Caspian, have all been described so often and so accurately by far more fluent pens than mine that I may well confine myself to a few features of the present situation directly pertinent to competitive commerce.

The future of the Russian petroleum industry is principally contingent upon a continued large and economic production of the Balakhani territory; increased transportation facilities, the extent of Government subsidy or support, and, finally, upon the hope of diminished production and higher prices in America. Among the elements of its weakness is the very natural probability that when this circumscribed territory shall in due time diminish in productiveness or maintain its productive power at a greatly added cost, that no new territory of corresponding value as to economic development and convenient location may be substituted.

To a far greater extent than in America does successful permanency depend upon an extremely low cost for the crude article. With a yield of only about 30 per cent. of refined petroleum as compared with a yield of 70 and 75 per cent. from the American crude, there is remaining an enormous residual product, very little of which even now can be profitably marketed, and very much of which cannot be marketed at all. Therefore, it becomes evident that each increase of cost in the Russian crude above its almost nominal valuation of to-day would be attended with a far greater added cost for the refined product than would result in America from a corresponding advance in the cost of the crude product there. While indications are not lacking that the cost of production in the Balakhani territory is surely and steadily, even if very gradually, increasing, it appears none the less evident that for a long time to come this territory must hang like an unwelcome cloud over the hopes and dreams of the American producer, longing for the prices and the profits of the good old days. The majority of the refiners of Baku appear to be acting upon the theory that they have a sort of "demand call" on this territory for unlimited future supplies, and comparatively little surplus has therefore been accumulated *above* the ground. The American industry, on the other hand, with the new developments constantly under way, with an enormous daily production and with a reserve stock of about 35,000,000 of barrels, may reasonably hope that the future will not place them under less advantageous conditions of competition than of late.

The Russian refining interest at Baku has found itself embarrassed by inadequate railway transportation to the Black Sea, traceable not alone to insufficiency of tank wagons but to restricted possibility of transport over the Surammé Pass, about 3,100 feet above the level of the sea.

The Russian Government has long had under consideration methods of relief halting between a decision in favor of a pipe line connecting Baku with Batoum, a distance of more than 650 miles, or of constructing a tunnel under the Surammé Pass. In declining up to the present time to give practical aid to what would at first be regarded as the simple solution of the two, the Russian Government has been doubtless influenced by the following considerations: That, being the guarantor of the railway shares and debentures, it would be unwise to promote any parallel enterprise which would materially increase the annual deficit of the railway by taking from it its principal source of revenue; again, the efficacy of a trunk pipe line would be far more in doubt, its mission far more uncertain, than in America.

The Russian government was doubtless aware that to convey *both* the crude and refined product through the same pipe line would be impracticable. The objections to thus transporting the *crude* (as done in America) would be that all economic considerations would be shattered by paying expensive pipage on a product of which about 70 per cent. may be classed as residual, and aside from the probable and continual clogging of the pipes, which the character of this crude product appears to suggest, the further obstacle is presented of necessitating the transfer of the refineries from Baku to Batoum or the construction of entirely new ones at the latter place, naturally entailing enormous expenditures. On the other hand if conveying the *refined* product is contemplated, the question of discoloration becomes most important, and aside from this it is evident that it would place the product of all the Baku refineries on the same footing.

There could be no discrimination as to brand or comparative excellence or deficiency of refining, and even if some quality stipulation were nominally exacted it would be almost impossible of enforcement, and the product of the larger and more reliable refineries would mingle at random with the product of the many smaller Tartar, Persian, and Armenian refiners with their primitive machinery and dubious business methods, creating a medley of products unlikely to inspire confidence in the critical markets of the world. The conveyance of distillate (the article freed by distillation from the residual product but not yet finished) is subject to almost the same objections, with the additional obstacle of compelling the refiners to have a *portion* of



their factory at *each* terminal of the pipe line, say 650 miles or more apart. While the doubtful utility of this pipe line might therefore cause either a Government or private capitalist to hesitate before incurring the great cost of its construction, it is further evident that in a country where military considerations dwarf all others, and in a portion of that country growing daily in strategical and political importance, the Government would naturally reflect, that, while a tunnel might facilitate the meeting of some great military crisis, army maneuvering in a *pipe line* would be slightly complicated.

The advocates of the tunnel further argue that the pipe-line would be built only in the hope of benefiting a single industry, while (military considerations aside) the tunnel would promote general commerce and conduce to the convenience of the public. The Government have had this question long under advisement and a decision may be anticipated at an early day. It is a subject of great interest to the petroleum industry of Russia.

If imitation be indeed the sincerest form of flattery, our acknowledgments must be extended to our Russian friends. Not content with copying to the extent possible every detail of American package and packing, they have paid to the high reputation of one of the prominent American brands (Pratt's Radiant) a most embarrassing compliment; as I do not wish to use the word "counterfeiting," some more conservative synonym must be imagined.

From fair competition the American packer certainly does not shrink, but he certainly does object to see his signature at large when he has given no power of attorney.

In the efforts about to be made to cause a discontinuance of these imitations, which have damaged so unfairly some of the American brands, it is greatly to be hoped that the decree of the proper tribunals may be of a character to vindicate the efficacy of trade-mark treaties, and I am sure the better element of the Russian industry should co-operate with us in these legitimate efforts. You are aware that we have not with Turkey as with Russia a trade-mark treaty, and the "regulations" covering this subject and claimed by the Ottoman Government to be equivalent in value to a treaty, present, I fear, a very dubious incentive to efforts for redress. If, however, we are successful in procuring a discontinuance of the imitations in the principal locality of their manufacture, a valuable precedent will be established which may promote and simplify our efforts for protection elsewhere.

Referring to the storage petroleum monopoly at Constantinople, which from time to time has been the subject of official communication and protests from the representatives of the United States to the Turkish Government, it appears that no important concession has yet transpired, and the charges upon a case of petroleum stored for six months in Constantinople continue about *six times* as great as for an equal period in some of the neighboring ports. I am aware that the gentlemen controlling this monopoly have the right to exact these charges so exorbitant, but their firman is optional, not compulsory, and I have personally no doubt they would find that policy ultimately the more profitable to themselves which should invite and not repel large deliveries to their custody. The importer to-day has no alternative but to employ his ingenuity in avoiding the delivery of one unnecessary package to the monopoly stores.

A more conciliatory policy would in my judgement result quite as much to the pecuniary advantage of those enjoying this exclusive firman as to the convenience and economy of the importers. But in addition to extravagant storage and inadequate avenues for guarding our brands from imitation, I note the intention of the Ottoman Government to materially increase the import duty on petroleum. I am aware that the theory is advanced that doubling the duty will not diminish the consumption, and that as the added tax falls indirectly but surely on Turkish subjects American interests cannot suffer. It is an almost invariable law of trade that consumption decreases as cost increases, and the experience of the American petroleum industry, gathered from every country of the world, certainly confirms such a statement as applicable to petroleum. In increasing this duty Turkey is guarding or promoting no home industry, and the balance of her trade with the United States is already heavily against the latter.

The firman which permits storage charges so exceptionally excessive I regard in conflict with the spirit if not the letter of our existing treaty, as causing in substance an additional duty. Whatever the motive, this has been the result. Petroleum is the first article of importance of United States exports to Turkey in Europe and in Asia. It is already taxed beyond the average import duties exacted by other countries, and far above the average exacted in other Oriental countries where consumption is so dependent upon cheapness.

Its progress in Turkey is already harassed enough by the storage exactions and brand imitations before referred to, and should not, in my judgment, be singled out for a greatly increased import duty. I venture, therefore, on behalf of the American petroleum industry, to anticipate that no material increase will transpire without encountering your remonstrance.

Reverting again to the broad question of American and Russian competition, I have noted the opinions of some of my predecessors to Baku that the economic domestic

practices of the Tartar, Persian, and Armenian refiners would make them formidable competitors to the more extravagant American refiners. I cannot accept this view of the case. They have other characteristics that far more than neutralize any advantages that mere personal economies can create. Devour each other in a retail sort of way they may, but if the Russian petroleum industry is to be permanently formidable and aggressive it will, in my judgement, be traceable to the brains, genius, and perseverance of a comparatively small number of men who can command the support of the Russian Government and the confidence of the banking centers of Europe.

In the comparatively few markets of the world where Russian petroleum has as yet made important headway it is generally conceded to be inferior and far more unreliable in quality and packing than the American product, and its introduction has been largely traceable to concessions in price or deceptions practiced upon the unwary consumer. Russian progress, however, is naturally facilitated by the fact that there is scarcely a market on earth where it is necessary to explain the nature and utility of refined petroleum. That work has been done by others. And so far as the varied machinery attending production, refining, and packing is concerned the petroleum industry of Russia has little to invent; it has merely to copy, but this has not been found an over-easy task. Years of pioneer toil, enterprise, and ingenuity on the part of the American industry have culminated in perfected methods, extensive manufactories, sound business organization, and an enormous trade at home and abroad, and this fruition has been accompanied by the accumulation of great financial resources which have been fairly won, and which no emergency has heretofore summoned into competitive action.

The Russian industry received a favoring stimulant from the action of its Government in placing a prohibitive tariff on the American product; but this nourishing influence has been greatly neutralized by the intense competition now in progress between the refiners of Baku for the supply of their home market, and if this industry is to be rapidly developed for an aggressive export campaign it can hardly hope to escape the penalty, which many a precedent suggests, of paying high rates for money and high prices for credit.

I have made no effort in the foregoing to cross the technical, the statistical, or the descriptive frontier; nor have I regarded it as pertinent to venture upon any personal prophecy as to whether a great commercial duel between these two industries is forthcoming, or whether a commercial treaty of peace may later on be ratified. To-day initial competition is in progress, and as the British Government is interested in guarding the manufactures of Manchester or bringing Indian cereals cheaply to the sea; as the Government of Russia is exhibiting an activity without a precedent (where its commerce is involved) in the development of what it conjectures may become the most important of that country's products; so the Government of the United States cannot be unmindful, and the petroleum industry gratefully recognizes and appreciates that it is *not* unmindful, of the welfare of the product standing first on the list of the manufactured exports of America; a product which has been so essentially and exclusively American, a product which has contributed so greatly to the favorable adjustment of American trade balances with the world, a product which has forced its way into more nooks and corners of civilized and uncivilized countries than any other one product in business history emanating from a single source. If unfair commercial practices assail it, if diplomatic intrigue is busy against it, I am sure I only re-echo your own sentiments when I invoke the co-operation of the foreign representatives of your Government in its defense whenever and wherever its well-earned supremacy is unfairly menaced.

I do not propose to inflict you with a recital of my journey from Constantinople to Baku.

The storms which attended my voyage on the Black Sea could not wholly neutralize the scenic beauty of its shores. I must dedicate to wanderers of greater leisure and more descriptive power the task of picturing the weary desert which the Caspian Sea alone can end, the glories of the Caucasus and the attractions of beautiful Tiflis. The railway linking these two historic seas seems like a boundary line where the dash of the Occident and the repose of the Orient have blended together in many a conglomerate exhibition of custom, race, and costume, while this powerful and growing Russian nation, with eyes turned lovingly to the south and to the east, are marching earnestly, silently, steadily onward to realize their dreams of conquest and territorial aggrandizement.

My visit to the enemy's camp (commercially speaking) was full of interest and instruction. It was signalized by many an act of considerate attention and courtesy, which, if I may not reciprocate hereafter, I shall at least long remember as serving to evidence that, however personal interests may be clashing, "there's something good in human nature yet." I am aware, sir, that this communication has conveyed but meager information in response to the inquiries with which you have honored me. It has been written amid the pressure of business avocation; but I cannot regard it as submitted wholly in vain, as its conclusion affords me so natural an opportunity of

according my appreciation of the interest you have manifested in my mission and of the series of personal courtesies contributing so acceptably to my sojourn on Ottoman soil.

I have, &c.,

WM. K. LIBBY.

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[Inclosure 2 in No. 147.—From the Advertiser, April 2, 1886, Constantinople.]

#### PETROLEUM IN EGYPT.

The recent discovery of petroleum wells in Egypt comes at an opportune moment for the fortunes of the country, always supposing that the supply should turn out to be as plentiful as it is well situated. When the news first arrived that oil had been "struck" near Suez, observes the Standard, some incredulity was—not unnaturally—expressed regarding the substantiality of the discovery. For some reason, probably because the great petroleum wells of America are, for the most part, in a carboniferous district, there is a popular notion that petroleum is intimately connected with coal; in reality there is no necessary relationship between the mineral and the liquid fuels. In Persia, China, Japan, Burmah, Baku, Galicia, and in various parts of Canada and the United States, not to mention the indications reported from Morocco, rock-oil occurs in all geological formations, from Silurian up to Tertiary, and the two epochs of the earth history with which it is most intimately connected are the Silurian and the lower half of the Tertiary systems, in which coal is either absent or very sparsely distributed.

The most productive region in the eastern hemisphere lies in the eocene and miocene of the Carpathians, Transylvania, and the Caucasus.

Two years ago M. Debay, a Belgian explorer, was sent to examine the neighborhood. For many months he has been more or less engaged in developing the wells at the cost of the Egyptian Government, and has now succeeded in establishing a little colony to workmen on the spot. After penetrating through beds of sulphur, shale, clay, limestone, and sandstone, he "struck oil," and ascertained that it exists in considerable abundance all over the neighborhood. A single well yields about 2 tons a day of the high specific gravity of 880, water being 1,000; and as the district is easily accessible from a part of the coast where there is a good anchorage, there is a fair prospect of a productive industry which should not only make the navigation of the Red Sea more tolerable but also improve the chances of a paying railway from the Red Sea coast to Cairo and to Berber. Fuel is power; but a self-stoking fuel in the torrid zone should be power combined with luxury.





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